



Save the Children

# NO SAFE HAVEN

The plight of Rohingya children across Asia



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We know we can't do this alone. Together with children, partners and supporters, we work to help every child become whoever they want to be.

## Acknowledgements

This report has been authored by Laura Haigh, with special thanks for input from Save the Children Country Offices in Asia.

Names marked with an asterisk have been changed to protect identities.

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Cover photo: Abdullah Noman\*, 10 months old, with his mother Nur Nahar\* in a refugee camp in Cox's Bazar, Bangladesh. (Photo: Allison Joyce/Save the Children)

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# Executive summary

Wherever they are and wherever they go, Rohingya children in south and southeast Asia face discrimination, exclusion, and denial of their most basic rights. For most of these children, these challenges begin in Myanmar, where the Rohingya community has suffered decades of state-sponsored persecution and violence. However, even after Rohingya families have left Myanmar – often in search of safety or a better life for themselves and their families – Rohingya continue to experience unequal treatment and denial of their rights, which over time has exposed them, their children, and their children’s children to ever-widening cycles of deprivation and marginalisation.

This report examines the situation of Rohingya children in five countries in southeast and south Asia: Myanmar, Bangladesh, Malaysia, Thailand, and Indonesia. As places of origin, transit, and/or destination, these countries are home – either permanently or temporarily – to hundreds of thousands of Rohingya children. All countries are required under international law to respect, protect, and fulfil these children’s human rights. Yet too often these rights are denied.

Based on in-depth desk research, key informant interviews, and analysis of national laws, the report examines three areas affecting Rohingya children’s lives and enjoyment of their rights: legal status and access to identity documentation; access to education; and risks to security and wellbeing, in addition to other child protection concerns. While not intended as a comprehensive examination of the situation, the report seeks to provide a snapshot of the challenges – in law, policy, and practice – that prevent Rohingya children in these countries from living their lives in safety and with dignity, equality, and respect for their rights.

## LIFE ON THE MARGINS

Based on publicly available information and estimates by non-governmental organisations (NGOs) and other credible sources, there are close to 700,000 Rohingya children in the five countries covered by this report. Rohingya boys and girls live lives on the margins of society across the region. Most lack any formal legal status – deprived of the right to a nationality in Myanmar and effectively rendered stateless as a result. Most Rohingya children inherit their *de facto* statelessness from their parents and – when they grow up – go on to pass it on to their children, perpetuating cycles of exclusion and marginalisation. Rohingya children also often struggle to access birth registration, which means they often have often no official record that they even exist. Failure to provide children with birth certificates exposes them to a range of age-related abuse and exploitation and can prevent them from exercising other rights and receiving legal recognition and protection as children.

Across the region, Rohingya children struggle to access comprehensive, quality education. The reasons for this are varied and wide-ranging. In some countries, discriminatory policies prohibit Rohingya children from accessing formal education, while in others, policies which on paper should facilitate access to education are not enforced or fully implemented. In several countries where access to formal education is restricted, United Nations (UN) agencies, NGOs and Rohingya community groups have stepped into provide informal

education; however, quality varies and lack of resources – including adequate funding, facilities and teaching staff – poses significant challenges.

While primary-level education is generally more available, lack of schools and limited financial resources mean that secondary level students often struggle to continue their studies. Even when they do, education is often not accredited, which means that children leave school with no officially recognised qualification. Adolescent girls experience greater difficulties going to school as cultural attitudes deprioritise girls' education and they face greater threats to their physical safety when traveling long distances to the nearest school. As a result, girls are much more likely to drop out of school, placing them at greater risk of early marriage and adolescent pregnancy. Without education, children grow up with limited opportunities to build a better life for themselves, and this can have devastating impacts on their emotional and psychological well-being. It also seriously limits their ability to earn an income, often condemning them to a life of poverty.

Across the region, Rohingya children face wide-ranging threats to their lives, protection, and safety. Their lack of legal status, poor socio-economic

position, and limited access to education exposes them to a range of abuses, including physical and domestic violence, child labour, child marriage, drug and alcohol abuse, trafficking, and arrest and detention (often for immigration-related offences). The situation also adversely impacts their psychological and motivational well-being, placing them at risk of mental health problems, self-harm, and developmental impairment. These concerns are even more acute for unaccompanied and separated children.

Ongoing persecution in Myanmar and poverty and insecurity in Bangladesh continues to push Rohingya families to undertake perilous sea journeys in the hope of reaching other countries in the region, often aiming to get to Malaysia. These journeys are extremely dangerous, and Rohingya risk death, physical abuse, and exploitation at the hands of ruthless smugglers and human traffickers. Yet governments in the region have often refused to allow these boats to land safely, implementing 'push-back' policies in an attempt to prevent refugees from coming ashore. Unless and until the situation in Myanmar improves, such journeys are likely to continue.



Some 884,041 Rohingya refugees live in refugee camps in Bangladesh's Cox's Bazar District. More than half of them (451,662) are children.

## NEW THREATS AND CHALLENGES

The already precarious situation of Rohingya in the region has been further exacerbated by the COVID-19 pandemic. In many countries, governments have tightened movement restrictions and closed national borders, making already dangerous migration journeys even more so. Authorities in several countries have used the pandemic as a pretext to conduct raids on irregular migrants, arresting and detaining those who lack official documentation. Meanwhile, as national economies have slowed, families dependent on informal livelihoods have struggled to support themselves. For Rohingya children, the situation has increased their risk of domestic and physical violence, exploitation, child labour, trafficking, and – especially in the case of girls – child marriage.

Meanwhile, the situation in Myanmar has become increasingly unstable after the military seized power in a *coup d'état* on 1 February 2021. Since then, thousands of people have been arrested and hundreds killed as the military has responded to anti-coup protesters with a campaign of violent reprisals. While the situation in Rakhine State has remained relatively stable compared to the rest of the country, Rohingya there continue to face discrimination and abuse, and the prospect of return for the hundreds of thousands who fled to Bangladesh in 2016 and 2017 looks increasingly remote. The need to ensure that – wherever they are – Rohingya are safe, respected, and protected is as pressing as ever.

The crisis facing the Rohingya community is one that extends well beyond individual state borders. It is also one that spans generations. Whether as children, adults, or older people, Rohingya are routinely denied and deprived of their basic rights. This status quo cannot continue. Regional governments have the responsibility and the power – individually and collectively – to guarantee the rights, safety, dignity and humanity of the Rohingya and ensure that they are able to survive and thrive as a community.

## KEY RECOMMENDATIONS

**Nationality and birth registration:** Give all children born in the country access in law, policy and practice to universal birth registration and civil documentation, irrespective of legal or other status, and immediately grant citizenship status to children born in the country who would otherwise be stateless. Take effective steps to register children and young adults born in the country whose births have not yet been officially registered.

**Refugee determination and regularization of legal status:** Work closely with the UN High Commissioner for Refugees (UNHCR) to make sure that all people in need of international protection are able to obtain it. Countries which lack a legal framework protecting the rights of refugees and asylum seekers should urgently establish one, in line with international human rights law and standards. Ensure that domestic processes to identify refugees and other persons in need of international protection are inclusive, transparent and do not discriminate on any grounds, including by age, gender, ethnicity or country of origin. All states should consider expanding access to regular migration channels, as well as regularisation of status for irregular migrants.

**Non-refoulement and safe disembarkation:** Respect the principle of *non-refoulement* and ensure that no one is transferred to a state or territory where their lives or safety would be at risk. Coordinate search-and-rescue efforts to locate and assist boats in distress and allow those aboard to disembark safely, making sure they have sustained access to humanitarian and other assistance.

**Return, relocation, and repatriation:** Return, relocation and repatriation of Rohingya must be voluntary, safe and dignified. Consult with Rohingya communities and make sure they are fully informed of all conditions and services available in the proposed sites for relocation, return or repatriation. Ensure that decisions on sustainable solutions that involve or impact children are taken in line with their best interests and after a thorough and multi-disciplinary best interests determination procedure.

**Access to education:** All Rohingya children should be able to access comprehensive, quality, accredited, safe and inclusive education, regardless of their legal or other status. Special efforts should be made to secure access to education for girls, particularly at secondary level.



Rohingya refugees fleeing violence in Myanmar in 2017, when more than 730,000 crossed the border into Bangladesh.

**Access to child protection:** All Rohingya children must be able to safely access appropriate and coordinated child protection services including social work case management and mental health and psychosocial support (MHPSS) regardless of their immigration or other status. Special efforts should be made to respond to the immediate psychosocial needs of adolescent girls and boys.

**Access to healthcare:** Ensure that all Rohingya children are able to access quality and inclusive healthcare services. Include refugee populations, including Rohingya children, in national COVID-19 vaccination and allocation plans.

**Facilitate family reunification:** Develop a coordinated regional approach to reunification of unaccompanied and separated Rohingya children with their parents or other legal guardians. This should include communication, as well as the establishment of safe and legal routes for reunification.

**End arrest and detention:** Individuals must not be criminalised, detained or otherwise punished solely for their method of arrival in a country. States that detain undocumented persons, including children, in immigration or other detention centres should immediately enact policies to provide alternatives to detention.

**Humanitarian access and support:** Make sure that UN agencies, humanitarian organisations and NGOs have full and unfettered access to communities in need. International donors should provide continuing financial support for humanitarian assistance to vulnerable populations, particularly children.

**Acknowledge and address the root causes of Rohingya leaving Myanmar:** This should include implementing recommendations made by the Advisory Commission on Rakhine State and supporting international justice processes aimed at holding to account the perpetrators of international crimes and human rights violations.

**Transparency and consultation:** Make sure that Rohingya, including children, are able to meaningfully participate in decisions affecting their lives. Make special efforts to consult women and girls, people with disabilities and other at-risk populations in policy and other discussions and decisions.

**Address xenophobia and advocacy of hatred:** Publicly condemn incitement to discrimination, hostility or violence – including where it is propagated by state officials – and raise awareness, including through educational campaigns in host communities and at the national and local levels, highlighting principles of non-discrimination, tolerance and inclusion.

**Strengthen international legal protection:** Ratify the UN Refugee Convention and the UN Convention relating to the Status of Stateless Persons, incorporate their provisions in domestic law and implement them in policy and practice.

Ummay\* escaped to Bangladesh with her family during horrific violence in Myanmar in 2017.



# 1 Methodology

This report is based on research conducted between November 2020 and May 2021, and draws on the following:

- A literature review of more than 50 reports and briefings relevant to the treatment of Rohingya children in the five countries of concern. This includes reports that specifically focus on the situation of Rohingya children, in addition to reports assessing the treatment of the wider Rohingya community, as well as the situation of refugees, asylum-seekers, and migrants in the focus countries.
- More than 30 key informant interviews with people working in or on each of the five countries of focus. This includes staff working in Save the Children country and regional offices, representatives of other national and international NGOs, UN officials, and members of the Rohingya community – either living in the countries of concern or members of the diaspora living in other countries. It also included interviews with 24 Rohingya children, which were facilitated by Save the Children Country Offices and partner

- organizations. All interviewees were informed of the nature and scope of the research, and interviews were conducted on the understanding that individuals and their organizations would not be quoted unless they had specifically consented. Where statements are made without directly attributed references to literature, these should be taken to be based on information gathered during these interviews. The COVID-19 pandemic meant that most interviews were conducted remotely.
- A review of relevant domestic legislation in each of the five countries of focus, as well as each states' obligations under international law – in particular, the ratification of relevant treaties and any reservations.

Save the Children would like to extend its sincere thanks and appreciation to all those who agreed to be interviewed as part of this research. The organisation wishes to extend its particular appreciation to the Rohingya Society Malaysia (RSM) and the Geutanyoe Foundation for their support and assistance.



# 2 Regional overview

## 2.1 THE SCALE OF THE PROBLEM

There are hundreds of thousands of Rohingya children living in Myanmar, Bangladesh, Malaysia, Thailand, and Indonesia.<sup>1</sup> Until recently, the vast majority lived alongside their families in Myanmar's northern Rakhine State. However from 25 August 2017, more than 730,000 women, men, and children were forced to flee to Bangladesh after the Myanmar military waged a devastating campaign of violence against the population, ostensibly in response to attacks on security posts by an armed Rohingya group.<sup>2</sup> Those who fled joined around 300,000 Rohingya who had fled previous waves of violence in Rakhine State, including around 87,000 who had escaped an earlier military campaign starting in October 2016.<sup>3</sup>

Today, some 884,041 Rohingya live in refugee camps in Bangladesh.<sup>4</sup> More than half – 451,662 are children. Meanwhile back in Myanmar the UN estimates that some 600,000 Rohingya remain in Rakhine State. Of these, an estimated 243,000 are children, around 69,000 of whom are confined in

'displacement' camps, while the rest live in villages and towns where they are subject to severe restrictions on their movement and are effectively segregated from the rest of society.<sup>5</sup>

Among the other Association of Southeast Asian Nations (ASEAN) countries that host Rohingya – whether as refugees, migrants, or victims of human trafficking – Malaysia has by far the largest population. According to UNHCR, as of March 2021, there were 102,560 registered Rohingya in the country.<sup>6</sup> While there are no figures publicly available for the number of registered Rohingya children, of the total 178,920 registered refugees in the country, around a quarter (45,720) are children.<sup>7</sup> Rohingya groups estimate that there are likely several thousand additional unregistered Rohingya in the country.<sup>8</sup> In Thailand, there are no official figures publicly available or the number of Rohingya in the country, however NGOs estimate there are between 3,000 and 15,000.<sup>9</sup> Most have lived in the country for more than a decade and reside in urban areas, although more than 100 are currently held in shelters for victims of human trafficking.<sup>10</sup> Of the

### REGIONAL MAP



countries examined in this report, Indonesia hosts the smallest Rohingya community, totalling several hundred people.<sup>11</sup> However, the number fluctuates as new arrivals often leave for Malaysia or other locations as soon as they are able to.

While these figures go some way to indicate the scale of the problem, they do not fully represent the scale and severity of the crisis. This is because they do not reflect the decades of institutionalised discrimination and violent expulsions that have forced Rohingya to flee Myanmar, nor do they reflect the lived reality of Rohingya who seek refuge in Bangladesh, Malaysia, Thailand, and Indonesia where they live continue to live in fear. Wherever they are, Rohingya continue to face threats to their lives and physical security, continue to be denied their legal status and identity, and continue to be deprived of opportunities that could allow them to build a better life for themselves and their families.

## 2.2 INTERNATIONAL LEGAL OBLIGATIONS

The five states examined for this report each have differing levels of ratification of key international human rights treaties (see table below). However, all five have ratified the UN Convention of the Rights of the Child (UNCRC), and as such, each state has an obligation to respect, protect, and fulfil the rights of children in its territory. Under the UNCRC, virtually every aspect of a child's life is protected, from their

access to education, healthcare, and family life, to their participation in public life and involvement in decision making processes that affect their lives. While Bangladesh, Malaysia, and Thailand maintain reservations to key provisions that impact the protection of Rohingya children's rights in their respective territories<sup>12</sup> – reservations that should be withdrawn immediately – all five states are required to ensure that “in all actions concerning children... the best interests of the child shall be a primary consideration”<sup>13</sup>

None of the four countries that are home to Rohingya refugees have ratified the UN Refugee Convention, and this is often presented as a reason why they are not legally bound to guarantee refugees' rights. However, as noted earlier, all four countries have ratified the UN Convention on the Rights of the Child, which requires them to uphold the rights of all children in their territory. In addition, irrespective of whether they have ratified the UN Refugee Convention, all states are bound by the principle of *non-refoulement*, which prohibits the transfer of individuals to another territory where they would face persecution or other violations of their rights and is a principle of customary international law that is binding on all states.<sup>14</sup> Additionally, all five states covered in this report have endorsed the Global Compact for Migration and the Global Compact on Refugees, which include specific objectives on the protection and support of children on the move. Finally, it is worth noting that as states parties to the UN Convention on the

TABLE 1: RATIFICATION OF CORE HUMAN RIGHTS TREATIES

	Myanmar	Bangladesh	Malaysia	Thailand	Indonesia
Refugee Convention	No	No	No	No	No
Convention on the Rights of the Child	Yes	Yes	Yes	Yes	Yes
International Covenant on Civil and Political Rights	No	Yes	No	Yes	Yes
International Covenant on Economic, Social and Cultural Rights	Yes	Yes	No	Yes	Yes
1954 Convention relating to the Status of Stateless Persons	No	No	No	No	No
1961 Convention on the Reduction of Statelessness	No	No	No	No	No

Law of the Sea, Bangladesh, Indonesia, Malaysia and Thailand, as well as Myanmar, are legally obliged to undertake search and rescue operations, render assistance to persons in distress, and cooperate with neighbouring states for these purposes.<sup>15</sup>

At the regional level, several ASEAN declarations and agreements also underscore the respect and protection of key rights which should in theory apply to Rohingya – whether as citizens or as refugees. The ASEAN Human Rights Declaration explicitly recognises the right of every person to “seek and receive asylum in another State.”<sup>16</sup> It further declares that “Every person has the right to a nationality as prescribed by law. No person shall be arbitrarily deprived of such nationality nor denied the right to change that nationality.”<sup>17</sup> While the Declaration is not legally binding – and contains multiple provisions that do not comply with international human rights law and standards – these provisions nonetheless signal a political commitment to respecting and protecting the rights of refugees and stateless people.<sup>18</sup>

Other ASEAN declarations also commit Member States to respecting and protecting children’s rights. This includes the 2001 Declaration on the Commitments for Children in ASEAN, which (among other things) commits to “give attention to” early childhood education (Article 11), protect children from all forms of violence, abuse, neglect, trafficking and exploitation (Article 15), give priority to children in rescue and relief operations, and hasten their reunification with their families (Article 17).<sup>19</sup> Similarly the 2019 ASEAN Declaration on the Rights of Children in the Context of Migration affirms the bloc’s commitment to protect the rights of children, recognising the need to “further strengthen the national systems, including but not limited to child protection, education, health, and justice, in the ASEAN region, and to enhance their accessibility for children affected by migration, including those who are unaccompanied or separated from their families.”<sup>20</sup> Meanwhile the 2010 ASEAN Declaration on Cooperation in Search and Rescue of Persons and Vessels in Distress at Sea commits to regional collaboration in order to ensure timely assistance to persons and vessels in distress at sea.<sup>21</sup>

## 2.3 LACK OF LEGAL STATUS, ITS CAUSES AND CONSEQUENCES

*The following sections provide a broad overview of issues facing Rohingya children in terms of their legal status, access to education and protection concerns. For more detailed analysis of the specific situation in individual countries, please see Section 3.*

Lack of legal status – whether in Myanmar or in other countries – is a key factor in the discrimination and restrictions that Rohingya experience. Legal status – in particular, nationality and identity documentation – is often essential for the enjoyment of other rights, such as the rights to freedom of movement, health, education, access to livelihood opportunities, and equal treatment before the law. Those who are deprived of legal status can experience discrimination, marginalisation, and exclusion from society.

For most Rohingya, their lack of legal status can be traced back to Myanmar, which does not recognise Rohingya as citizens, and which has, over decades, employed a range of laws and policies to progressively strip Rohingya people of their right to a nationality, effectively rendering them stateless.<sup>22</sup> This de facto statelessness follows Rohingya when they travel to other countries, exposing them to significant threats to their physical security and wellbeing. Although most – if not all – Rohingya leaving Myanmar should qualify as persons in need of international protection, neither Bangladesh, Malaysia and Thailand have no legal frameworks that officially recognise refugees.

While the governments of Bangladesh and Malaysia allow UNHCR to register Rohingya refugees, the Rohingya remain at risk of arrest and detention, particularly if they violate the ban on work by finding informal employment. In Bangladesh, the government refuses to allow Rohingya to be called refugees, instead referring to them as “Forcibly Displaced Myanmar Nationals” (FDMNs). This limits both their rights as refugees and the ability of aid agencies to assist them to the full extent of their needs. Meanwhile, in Thailand, political sensitivities mean that UNHCR is not allowed to register Rohingya refugees. However, Rohingya who are identified as victims of trafficking do receive special status and legal protection.

Rohingya children in Myanmar inherit their parents’ de facto statelessness, and denial of their legal status

begins at birth as the vast majority of Rohingya children do not have a birth certificate, which is vital for obtaining civil documentation – something that is already extremely difficult for Rohingya to obtain.<sup>23</sup> Rohingya children living outside of Myanmar also struggle to obtain official documentation. Despite the huge numbers of Rohingya now living in refugee camps in Cox’s Bazar, Bangladesh does not issue new-born Rohingya children with birth certificates, in violation of its own laws on birth registration. Although Rohingya children born in Malaysia, Thailand and Indonesia are entitled to a birth certificate, these can be difficult to obtain in practice – in particular, for undocumented parents who fear arrest and imprisonment if they are found to be living ‘illegally’ in the country.

Birth registration is a vital, permanent record of a child’s identity, and indeed their existence. As well as providing important details about their parents, birth certificates are essential proof of age – allowing children to be recognised as children in need of additional protection and support. Failure to provide children with birth certificates exposes them to a range of age-related abuse and exploitation. Girls are especially vulnerable to child marriage, which is not only a violation of their rights as children but also often leads to deprivation of other rights, particularly the right to education. Child marriage also increases the likelihood of early pregnancy, which significantly increases girls’ risk of dying during pregnancy or childbirth. Meanwhile, boys are vulnerable to child labour and exploitation, and older boys without identity documentation are at particular risk of arrest and detention for immigration-related offences.

In the four countries that host Rohingya refugees, birth certificates do not confer nationality or citizenship status, and the process for registering births is completely separate to the process for acquiring citizenship rights. This can create further challenges to acquiring a nationality, in particular where processes are discriminatory or bureaucratic, or otherwise not fully implemented. The result is that most Rohingya children born in these territories are rarely granted citizenship rights and as a result effectively remain stateless.<sup>24</sup> This is a violation of obligations under the UNCRC, which provides that all children have the right to acquire a nationality, and requires states to implement this obligation “in particular where the children would otherwise be stateless”.<sup>25</sup>

Lack of identity documentation and legal status follows Rohingya children throughout their lives, and as they grow older prevents them from exercising other rights, such as the right to employment, to marry, to access social security, and to enjoy the full protection of the law. These restrictions – in particular restrictions on access to work – go on to adversely impact their children, and their children’s children, exposing the community to intergenerational and ever-expanding cycles of discrimination and marginalisation.

## 2.4 LIMITED ACCESS TO EDUCATION

Across the region, Rohingya children struggle to access comprehensive, quality, safe and inclusive education. In Myanmar, Rohingya children face multiple restrictions on their ability to access formal education. In villages and towns across Rakhine State, various factors adversely impact Rohingya children’s access to education: restrictions on movement of Rohingya, the reluctance of government teachers to teach in Rohingya schools, and intercommunal fears and distrust.

Rohingya children who flee Myanmar also face serious challenges to accessing education. The fact that many children have already experienced years of deprivation of access to education in Rakhine State makes the situation especially alarming. Both Bangladesh and Malaysia officially prohibit Rohingya refugees from accessing formal education, and as a result, they rely on UN agencies, NGOs, and the local community to provide informal education. However, even these services are often insufficient, and while there is greater provision for primary-age children, secondary education is extremely limited. Education in these countries is also not accredited, which means that Rohingya who do manage to attend schools leave without officially recognised qualifications that would enable them to continue their studies or seek skilled and better-paid employment opportunities. Thailand and Indonesia have more progressive policies to ensure that refugee and undocumented children can access education at all levels. However, in practice, implementation can be patchy and Rohingya children continue to fall through the net. Across the region, children with disabilities often do not get the specialist support they require. Children who drop out of school early are at much greater risk of child labour, and adolescent boys in particular are

vulnerable to exploitation and abuse in hazardous working conditions.

While all Rohingya struggle to access education, Rohingya girls, and particularly adolescent girls, are much less likely to access education than boys. This is due to a combination of factors, including cultural norms that require adolescent girls to stay home, take care of children, and help with housework; or expectations for adolescent girls to marry. In some cases, parental concerns about girls’ security – especially if they are in mixed-sex classes, have all male teachers, or have to travel to access education institutions – also prevent them accessing education. The situation has knock-on impacts for girls’ lives, security and future opportunities, as girls who stop schooling are much more likely to marry early and thus are at greater risk of child pregnancy.

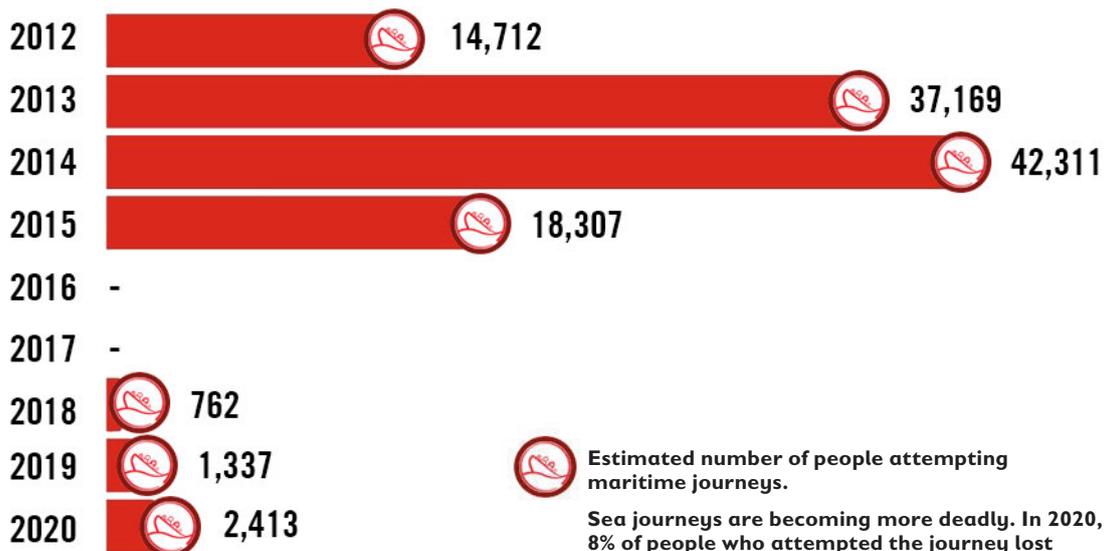
Denial of access to education has wide-ranging and long-lasting impacts for children. Education is often the main tool for people to lift themselves out of poverty and seek a better future for themselves and their families. It is also an essential way to ensure that people know their rights and are able to seek justice and other remedies when these rights are denied.<sup>26</sup> In areas with a history of conflict, communal tension, and instability, education can similarly play an important role in building resilience, countering discrimination, and promoting peace.

Lack of access to education also impacts children’s mental health, especially if they feel they have no control over their lives or opportunities for their future. For refugee and asylum-seeking children who have experienced trauma and live with ongoing instability and lack of security, education can play an important role providing them with structure, a daily routine and supporting them to cultivate positive self-esteem.

## 2.5 A VULNERABLE POPULATION

With the situation in Myanmar still extremely dangerous, Rohingya have continued to flee the country in search of a better life for themselves and their families. However, as de facto stateless persons, they hold no recognised proof of legal identity or nationality, which is a prerequisite to entering another country and also leaves them at risk of arrest and detention within Myanmar. Unable to use safe and legal routes, they are forced to rely on non-legal routes, which expose them to abuse and exploitation at the hands of human traffickers and people smugglers. Over the years, tens of thousands of Rohingya, including children, have boarded boats in Myanmar and Bangladesh and undertaken perilous journeys across the Bay of Bengal and Andaman Sea in search of a better

### MARITIME MOVEMENTS OF ROHINGYA

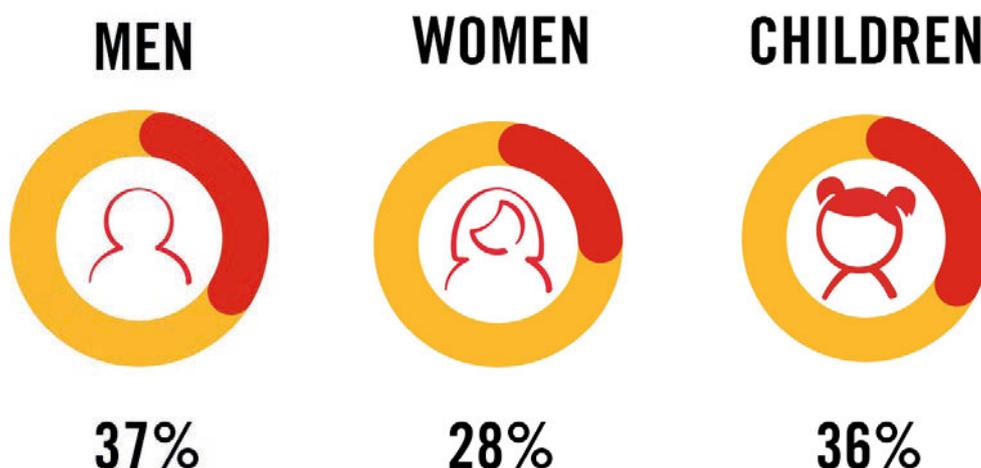


 Estimated number of people attempting maritime journeys.

Sea journeys are becoming more deadly. In 2020, 8% of people who attempted the journey lost their lives, amounting to more than 200 dead or missing persons. In contrast, in 2019, less than 1% of persons attempting the journey died.

Source: Data from UN High Commissioner for Refugees

## AGE AND GENDER BREAKDOWN OF SURVIVORS OF SEA JOURNEYS IN 2020



Source: Data from UN High Commissioner for Refugees

life in Malaysia, Australia, and other countries.<sup>27</sup> Between 2012 and 2015, UNHCR estimates that 112,500 Rohingya embarked on such journeys; during this time, an unknown number died at sea.<sup>28</sup>

In May 2015, following a regional crackdown on human trafficking, thousands of Rohingya refugees and Bangladeshi migrants were left stranded on boats after being abandoned by human traffickers.<sup>29</sup> Regional governments began implementing a push-back policy, in what was described at the time as “human ping pong”.<sup>30</sup> Such push-backs constitute a violation of the principle of non-refoulement, as well as of the obligation to rescue people in distress at sea. It was not until fisherfolk in Indonesia’s Aceh province intervened that Indonesian and other regional authorities began likewise undertaking search and rescue operations.

The crisis generated significant international criticism, and in response, regional governments convened a Special Retreat on Irregular Migration in the Indian Ocean which was held in Bangkok in late May 2015. There, attendees restated their commitment to undertaking search-and-rescue operations, allowing disembarkation, ensuring timely provision of humanitarian access and protecting the rights of victims of human trafficking and migrants.<sup>31</sup> However, there has been little concrete follow-up on these commitments.<sup>32</sup> Similarly, the Bali Process, a regional forum for policy dialogue, information sharing, and cooperation on issues related to people smuggling, trafficking persons

and related transnational crime, has remained largely ineffective in addressing the crisis.<sup>33</sup> The 2016 Declaration adopted at the Sixth Ministerial Conference of the Bali Process committed states to protection activities and search and rescue and to “timely and proactive consultation to respond to emergency situations”.<sup>34</sup> However, no emergency meeting has been convened. Meanwhile, Rohingya have continued to flee persecution in Myanmar and ongoing insecurity in Bangladesh and in 2020, some 2,400 Rohingya, including children, boarded rickety boats. UNHCR estimates that during the year, one in every 12 Rohingya who embarked on these journeys lost their lives at sea.<sup>35</sup>

Journeys by sea have always been dangerous for Rohingya, but the risks have been exacerbated by the COVID-19 pandemic. From March 2020, as regional governments sought to contain the spread of the virus, they closed their borders to refugees, and from April 2020 – much as they did in 2015 – they have attempted to turn away boats carrying Rohingya refugees.<sup>36</sup> While some were eventually able to disembark in Malaysia and subsequently detained or placed in quarantine centres,<sup>37</sup> 306 refugees (33 of them children) were returned to Bangladesh, where they were transferred to the remote island of Bhasan Char, where they remain confined.<sup>38</sup> Around the same time, Malaysia saw an alarming increase in anti-Rohingya sentiment, often propagated online and in the media by state officials, sparking concerns for the safety of Rohingya already in the country.<sup>39</sup>

## MONTHS TRAPPED AT SEA

**In early 2020, 16-year-old Aziz\* was trapped out at sea for almost two months. Aziz ran out of food and water after the boat he was travelling on was turned away from Malaysia for a third time due to COVID-19 restrictions.**

*“All the food we had was finished. We were starving for days. The boat was not big enough to hold a lot of people. I can’t remember how many people there were, but we barely could move [as] we were sitting so tightly together. We had no water to drink. Some people drunk water from the sea. They got sick later. We were at sea for almost two months. I saw a man dying and the broker threw the body into the sea. The broker beat us when we asked him to turn around and go back to Bangladesh. I never thought I would survive.”<sup>41</sup>*

**19-year-old Abdullah\* made the perilous journey by sea so he could find work in Malaysia. After three unsuccessful attempts to reach Malaysian shores, the overcrowded boat he was on started sailing towards Myanmar.**

*“We were hopeless. Because at that time we were already dying for food and water. We had no idea where we should go! Then the broker called us and said to head to Myanmar. We went there but we were turned away. After that we kept floating without any food or a drop of drinking water. Almost 60 days we kept floating. Then we were rescued by the Bangladeshi coast guard. Almost 80–90 people died due to hunger and from drinking ocean water.”<sup>42</sup>*

Wherever they are, Rohingya risk arrest and detention. In Myanmar, restrictions on their movement mean that those who travel without official permission – including children – are vulnerable to arrest and detention. In Bangladesh, Malaysia, Thailand and Indonesia undocumented Rohingya face similar risks – accused of being “illegal” migrants, particularly if they are not registered with UNHCR. In Malaysia, authorities routinely arrest and detain undocumented children, including children without their parents or guardians. While both Thailand and Indonesia have enacted policies that prevent the detention of children, such cases have continued to be reported. In Bangladesh, restrictions on Rohingya people’s freedom of movement mean they are essentially confined to refugee camps.

Confinement – whether in immigration detention centres, refugee camps, ‘shelters’ or other locations – has an adverse impact on children’s physical and mental well-being. Girls and boys can experience multiple forms of violence, including physical and emotional violence, sexual abuse, child marriage, child labour and neglect. Where they are confined themselves, children can experience mental illness and poor physical health, and are at risk of self-harm and developmental impairment.

When their parents or guardians are detained, children can suffer from emotional distress and anxiety, and are more likely to struggle to access education and adequate healthcare, particularly if the family’s primary breadwinner is detained. The risk of arrest and detention can also create a wider culture of fear, preventing children and their families from leaving their homes or travelling beyond their immediate environment. Confinement and the resulting segregation can also worsen intercommunal tensions between host communities and Rohingya, which, if left unaddressed, could lead to violence.

Rohingya children are also impacted by wider restrictions on the community, in particular those that affect their parents and guardians. Restrictions on refugees’ right to work mean that parents of Rohingya children face challenges in securing jobs. Those who do work are in informal jobs, without labour rights and other legal protections, which leaves them vulnerable to economic exploitation, abuse, arrest and detention. This situation in turn can limit children’s access to an adequate standard of living, and to education and healthcare, and exposes them to child labour and, in the case of girls, early marriage. These constraints have been exacerbated during the COVID-19 pandemic, as national economies have slowed and employment opportunities have dried up.

# 3 Country by country snapshot

## 3.1 MYANMAR

### ROHINGYA CHILDREN IN MYANMAR

**Kassem\* is 11 years old. He lives with his parents in Maungdaw, northern Rakhine State and goes to school near his house.**

*Now, I'm in Grade 6. The school is near my house, so it's fine for me to go, but it's difficult living here... We don't have many freedoms or opportunities. Travel within our quarter [in Maungdaw] is fine, but traveling outside is restricted... We don't go out very much... I'm afraid of security checkpoints.*

*When I grow up, I want to be a doctor so I can help people. I want to get freedom of movement and citizenship. And I want to bring back the Rohingyas who fled to Bangladesh.*

**14-year-old Abdul\* lives in Buthidaung Township in northern Rakhine State along with his mother and two older brothers.**

*I've lived here all my life. I'm in Grade 8, and like reading books and seeing my friends at school. But*

*access to high quality education is not available, and some students can't afford to attend school. Outside of school I like playing badminton and football, riding my bike, and talking with my friends.*

*Travel and freedom of movement is restricted here. It's free for people from other ethnic groups but not for us because we are Rohingya. If we travel to faraway places, there is always fear police might arrest us. There is also the danger of landmines. The situation right now is stable, but there's a curfew. The authorities arrest people if we are found outside [during curfew hours]. Also, food prices have been increasing rapidly [since the military coup].*

*I want a future without difficulties and to have a good business so I can earn money and build a house for my family. I want freedom, independence, and rights for Rohingya, including easing of movement restrictions.*

Until 2017, the vast majority of Rohingya in Myanmar lived in the northern part of Rakhine State, where they have faced decades of discrimination and restrictions on their rights. While more than 730,000 have fled to Bangladesh following military violence, the UN estimates that there around 600,000 Rohingya remain in Rakhine State.<sup>42</sup> Of these, 126,000 people – 69,000 of them children – are confined in 'displacement' camps or camp-like settings, where they have lived since violence forced them from their homes in 2012.<sup>43</sup> The rest live in villages, where segregation, restrictions on movement, and communal tensions limit their access to essential services. Of the estimated 470,000 non-displaced Rohingya, around 173,900 are children.<sup>44</sup>

### LEGAL STATUS

Rohingya in Myanmar have faced decades of discrimination, violence, and marginalisation at the hands of the Myanmar state. Central to this is their lack of legal status: Myanmar refuses to recognise Rohingya as citizens of the country, despite previously recognising them before 1982, instead asserting that they are migrants from Bangladesh. In 1982, Myanmar enacted a new Citizenship Act, which came soon after a violent campaign to expel the population in the late 1970s.<sup>45</sup> In Rakhine State, the Act was applied in a discriminatory and arbitrary way allowing the authorities to strip Rohingya of their citizenship rights, effectively rendering them stateless. When Rohingya handed

in their old documents to apply for new identity cards, they never received them, and instead were given ‘Temporary Registration Cards’ which are not proof of citizenship. Over the years, children born to Rohingya parents have inherited their parents’ *de facto* statelessness.<sup>46</sup>

Since the enactment of the 1982 Citizenship Act, Rohingya have been forced to accept several different forms of identity documentation, none of which conferred citizenship rights. Each new form of documentation brought with it threats, intimidation, and a further denial of rights. In mid-2015, the then-government launched a ‘citizenship verification’ process to establish whether persons without official identity cards were entitled to citizenship. The scheme did not allow Rohingya to self-identify as Rohingya, instead it insisted they identify themselves as ‘Bengali’ – a derogatory term in the Myanmar context. As a result, most chose not to participate. Soon after it came to power in March 2016, the National League for Democracy (NLD), headed by *de facto* leader Aung San Suu Kyi, relaunched the process, rebranding the cards as National Verification Cards (NVCs). However, once again, Rohingya were not permitted to self-identify. Despite reports of threats, intimidation, and other attempts at coercion, the community continues to reject the cards.<sup>47</sup> In 2018, a UN Fact-Finding team called for the process to be suspended immediately.<sup>48</sup>

As well as the denial of citizenship, Rohingya children also face significant obstacles to having their births registered. From the 1990s, Myanmar stopped issuing birth certificates to Rohingya children, leaving them without an official record of where and when they were born, or confirming the identity of their parents.<sup>49</sup> Without a birth certificate, Rohingya children have to rely on household registration lists – also known as ‘family lists’ – as their primary means of official documentation. These lists, which in northern Rakhine State are updated annually, are often Rohingya children’s only evidence of residence in Myanmar. However, in practice, the process of adding a new-born baby to a family list is extremely bureaucratic and requires payment of several ‘fees’ which makes it difficult to obtain.

For Rohingya living in central Rakhine State, including those living in ‘displacement’ camps, household lists have rarely been officially updated since 2012, if at all, and as a result they rely on

informal registration of newborns as a record of birth. While recent years have seen government efforts to register new births and issue birth certificates to Rohingya children through mobile teams, the numbers are extremely low, and the process has been hindered by the measures to contain the COVID-19 pandemic.<sup>50</sup> Concerns have also been raised about the extortion by brokers, who claim fees from families when assisting them during the registration process.<sup>51</sup>

Lack of legal status has devastating impacts for Rohingya children. Lack of citizenship is used to justify severe restrictions on Rohingya people’s movement; they have to apply for official permission to travel between villages, townships, and outside of the state.<sup>52</sup> Those who travel without official permission are at risk of arrest, detention, extortion and physical abuse. Children’s access to education and healthcare is also limited. Because restrictions on movement mean their parents and adult relatives are severely limited in their ability to work and earn an income, Rohingya children in Rakhine state are at greater risk of food insecurity and malnutrition, as well as child labour and other forms of exploitation and abuse.

## ACCESS TO EDUCATION

Rakhine State is among Myanmar’s poorest areas, and access to education is very limited for children from all communities, regardless of their ethnicity or religion. The state has by far the poorest education indicators of any of Myanmar’s 14 states and regions – for example, its teacher-student ratio is 1:130 compared to a national average of 1:33.<sup>53</sup>

In the Rohingya ‘displacement’ camps, which are mainly in central Rakhine State, education is largely provided by NGOs, who offer formal education in 16 non-formal primary education centres and 110 ‘temporary learning centres’ (TLCs). These centres are seriously under-resourced and understaffed, and all lack adequate water, sanitation, and hygiene facilities.<sup>54</sup> Quality of teaching is also limited, as the Rohingya teachers are themselves products of a poor basic education system, and many were not able to complete high school education.

Children with disabilities face additional challenges, as teachers often lack specialist training and overcrowded classrooms means it is difficult to support their specific needs.<sup>55</sup> Access to secondary education is even more restricted, with just seven

middle schools and one high school offering education for the entire population of ‘displaced’ Rohingya children. Only children who live close by – or whose parents can afford to send them and pay for accommodation – are able to attend.

Rohingya children living outside of ‘displacement’ camps also struggle to access education. While there are generally primary schools in or close to Rohingya villages and village tracts, government teachers are often reluctant to go in to Rohingya villages, citing fear for their security.<sup>56</sup> The situation is not helped by the fact that younger, less experienced teachers are often assigned to schools in Rakhine State.<sup>57</sup> Pervasive, harmful, and false stereotypes about Rohingya – in particular men – mean that young female teachers are often reluctant to teach in Rohingya areas. Access to secondary education is even more limited, as secondary schools are often located further away from Rohingya villages. Formal restrictions on the movement of Rohingya people mean that travel to schools can be very difficult, costly and dangerous, meanwhile fears of communal violence make parents reluctant to send their children these institutions.<sup>58</sup>

With access to government education limited, in some areas, the Rohingya community has sought to educate children using local villagers (often more educated members of the community) as teachers. However, many of these teachers lack sufficient training and education. The reliance on informal community teachers also means it is difficult for Rohingya children to learn the Myanmar and Rakhine languages, which can prevent them from integrating into Rakhine State and wider Myanmar society.<sup>59</sup>

While all Rohingya children struggle to access education in Rakhine state, girls face specific obstacles and access becomes more challenging as they grow older. Families often prioritise education for boys, whereas when girls reach adolescence they are expected to stay at home and undertake cleaning and childcare duties. Traditional attitudes also mean that parents are often reluctant to send their adolescent girls to attend mixed-sex classes.

Since 2012, movement restrictions and discriminatory policies have made it almost impossible for Rohingya to access university education, and they have been unable to physically attend the university in Sittwe, the capital of Rakhine State for undefined ‘security’ reasons. In its final report, the Advisory Commission on Rakhine State – a body set up by the then NLD

government to seek solutions to the challenges in the state – called on the government to “expand access to post-primary education for children from all communities” and “find ways and means to also permit their physical presence at university in Rakhine State”.<sup>60</sup> While there were efforts to begin online distance learning programmes, these have been insufficient and subject to disruption after the government imposed restrictions on the internet in large parts of the State from June 2019. Rohingya have also complained that the quality of instruction remains low, and they are limited to studying specific courses. More recently, there have been efforts to facilitate young Rohingya adults to access university education in other parts of the country, and in 2020 around 100 students were able to leave Rakhine State and start their degrees.<sup>61</sup> However, a precondition for travel is possession of an NVC card, which, for reasons outlined earlier in this section, is something students are reluctant to accept.

COVID-19 has had a further impact on children’s access to education, as all schools in Myanmar have been closed since March 2020. According to a World Bank report, during this time only 9% of children nationwide accessed education materials online, while 75% of children in the lowest wealth quintile did not engage in any form of learning activities during the 2020–2021 school year.<sup>62</sup> For communities living in Rakhine State, restrictions on mobile internet from June 2019 had meant that children’s access to online information – if they could afford to get online – was already severely curtailed.<sup>63</sup> Since the coup d’état on 1 February, the Myanmar military has restricted internet and telecommunications across the country, which has further disrupted students’ ability to access online learning.

### PROTECTION CONCERNS

Rohingya children in Rakhine State experience wide-ranging and multifaceted protection challenges. These include poverty, child labour, physical and sexual violence, child marriage, protracted displacement, and drug abuse. Many of these challenges also adversely affect children’s mental health. Denied education and with few opportunities to improve their lives, children’s mental and psychological well-being is also seriously impacted. This in turn can have a negative impact on their cognitive, social, emotional and physical development. Without freedom of movement and with limited employment opportunities, the vast

majority of Rohingya are extremely poor. While this situation affects all members of the community, it creates specific protection concerns for children as it places them at increased risk of physical and sexual violence, child labour, unsafe migration and trafficking, and – especially for adolescent girls – early marriage.

The dire situation facing Rohingya in Rakhine State is exacerbated by severe restrictions on humanitarian access. Access has been limited in the state (and other parts of the country) for years, and UN agencies and NGOs face a range of bureaucratic and cumbersome administrative processes in order to undertake operations. This includes applying for official permission to travel to implement programmes and requirements to provide information about the dates and locations of travel. Failure to comply, or deviation from approved activities can result in the travel authorisation being revoked. This already limited access deteriorated still further after an outbreak of COVID-19 in the State from August 2020,<sup>64</sup> and from 1 February 2021, most organizations suspended operations after the military seized power in a coup d'état. It remains unclear whether and under what terms humanitarian operations will be able to continue; however, the needs of children – and other vulnerable groups – remain. With the economy in crisis and gross domestic product (GDP) expected to contract by up to 20%,<sup>65</sup> the country faces an imminent humanitarian crisis, and it is likely that needs for aid and other assistance will become even greater.

With no improvements in the situation in Rakhine State, Rohingya have continued to try and flee, often journeying overland to Yangon, Myanmar's main city. These journeys are extremely risky, and Rohingya are vulnerable to arrest and detention for

travelling 'illegally', as they do not have permission to leave Rakhine State. In recent years scores of Rohingya – including children, have been detained after attempting to travel outside of Rakhine State without permission.<sup>66</sup> While some were charged with immigration-related offences, others were sent back to their homes and villages in Rakhine State, after being forced to accept NVCs.

Rohingya children are also at risk of conflict-related violence. From early 2019 until mid-November 2020, there was a major escalation in conflict between the Myanmar military and the Arakan Army, a mainly ethnic Rakhine armed group. Children from all communities were caught up in the conflict, vulnerable to injury or death as a result of indiscriminate artillery attacks and gun fire,<sup>67</sup> while Rohingya children were also subjected to forced labour and portering.<sup>68</sup> During the fighting, the Myanmar military failed to respect the civilian nature of schools, at times using them as temporary bases and barracks, or as interrogation sites.<sup>69</sup> This not only puts the lives and physical safety of children at risk, it also restricts their access to education.<sup>70</sup> While there has been a cessation of hostilities since mid-November 2020, all civilians (including children) remain at risk of injury or death due to landmines, improvised explosive devices (IEDs), and other explosive remnants of war (ERW).<sup>71</sup>

Meanwhile, those responsible for atrocities against the Rohingya in 2016 and from 2017, as well as grave violations in Rakhine during the military AA-conflict, have yet to be brought to justice. Accountability will be essential for improving the situation for all communities in Rakhine State, it is also an essential component for creating conditions that are conducive to the safe, voluntary, and dignified return of refugees from Bangladesh.

## 3.2 BANGLADESH

### ROHINGYA CHILDREN IN BANGLADESH

**9-year-old Rashida\* fled Myanmar in August 2017, along with her parents and siblings. She was just five years old. Now living in a refugee camp in Bangladesh, she wants to become a doctor or a teacher when she is older so that she can help others in her community.**

*I miss my home in Myanmar. In the camps here it is very hot: there are no trees. Back home in Myanmar we had many trees around to keep us cool and we could play outside, but here we cannot. During the rainy season here, water floods our shelters and snakes and insects come inside.*

*I go to school but the schools have been closed here for over a year now [because of the pandemic].*

*The school could be improved if they teach us using the Myanmar curriculum. If they use this system and have Myanmar teachers, our education will improve... it would help me to be a doctor or teacher. I am worried that if we cannot access education and study here, our life will be very dark and we will not have a future.*

**Kamar\*, 13-year-old, arrived in Bangladesh in March 2018. While he was sad to leave his home in Myanmar, he was also worried about whether he would be able to continue his studies in the refugee camp.**

*I do not attend the learning centers run by NGOs, because they do not have formal education and they do not teach older students. They cannot provide me with what I need to receive a proper education, so I attend school at a private center that is run by Rohingya teachers, not humanitarians. They run classes using the Myanmar curriculum. Because of the pandemic, all of the learning centers have closed and*

*we cannot continue our education. Although I still miss my home in Myanmar, not having education is the cause of my unhappiness.*

*I would like the Bangladesh government to give us access to higher education to help children and students to fulfill our aspirations. Also, if the government and NGOs recruit Rohingya as teachers, our education, and the education we receive at the learning centers would improve. If we get education, I think our future will be bright.*

**17-year-old Mohamed\* fled from Myanmar to Bangladesh in 2017 and lives with his parents and other relatives in the refugee camp. He wants to return to Myanmar as soon as possible, but only if he can get citizenship and have equal rights to others in the country.**

*When I first arrived I didn't worry because I hadn't realized yet that the lives of refugees are like animals in a zoo, but after a few days I realized everything. Everything is different here. In Myanmar, I had a wooden house but here we have only a shelter and there are no proper schools, no playground and we do not even have freedom of movement. I worry about people starting fires, about our security at night, and that we are not getting enough food.*

*I do not go to school because my family is very poor. My father is quite old and he isn't able to earn enough money to survive. I work at a construction site in the camp, carrying water for other people who work there. I earn about 200 taka per day, working three days per week to support my family to survive. Not being able to go to school, I feel very disappointed with my life because this is the time I should be learning.*

Bangladesh has a long history of hosting Rohingya refugees. In 1978, some 250,000 Rohingya were forced to flee Myanmar after a violent military crackdown, while in 1991–92, around 200,000 fled the country in search of safety across the border. Most eventually returned to Myanmar. However, evidence suggests that these repatriations were

not voluntary and in both periods the government of Bangladesh allowed conditions in the camps to deteriorate, giving refugees no choice except to return to Myanmar.<sup>72</sup> From August 2017, another violent military campaign forced more than 730,000 Rohingya across the border to Bangladesh.<sup>73</sup> This expulsion came just under a year

after around 87,000 people were forced to flee a similar – although smaller – military campaign.<sup>74</sup> Today, some 884,041 Rohingya refugees live in refugee camps in Bangladesh's Cox's Bazar District. Of these, more than half (451,662) are children.<sup>75</sup>

### LEGAL STATUS

The vast majority of Rohingya refugees in Bangladesh have no legal status. This is because Bangladesh, which is not a state party to the UN Refugee Convention, refuses to recognise the Rohingya as refugees, and instead refers to those who arrived in 2016 and from August 2017 as Forcibly Displaced Myanmar Nationals (FDMNs). Their lack of legal status creates barriers to exercising other rights, including to freedom of movement, access education and livelihood opportunities. While there is a small group of officially registered Rohingya – around 33,000 people who have lived in camps since fleeing military violence in the 1990s – in practice they face many of the same restrictions on their rights as newer arrivals.<sup>76</sup>

While Bangladesh has refused to officially recognise Rohingya as refugees, the sheer scale of the influx from 2017 necessitated efforts to undertake some form of registration. In June 2018, Bangladesh and UNCHR began a massive exercise to record

the biodata and biometric data of each refugee, including fingerprint and iris scans. Refugees were then issued with an ID card with their photograph and basic information such as their gender and date of birth. Cards were issued to children above the age of 12 and families of younger children were issued with additional documentation confirming their children's details.<sup>77</sup> While the exercise has made it easier for the UN and NGOs to ensure “protection, identity management, documentation, and provision of assistance”,<sup>78</sup> it is important to note that the ID cards do not confer formal rights on those who hold them.

Under Bangladesh law, birth registration and the issuance of birth certificates is mandatory for all children born in the country “irrespective of race, religion, clan or sex”.<sup>79</sup> When it comes to Rohingya refugees, implementation has been extremely problematic. From March 2015, following negotiations with UNHCR, Bangladesh agreed to begin registering Rohingya refugees born in the official camps in the country's civil registry.<sup>80</sup> However, following the influx of refugees in 2017, Bangladeshi authorities suspended birth registration completely.<sup>81</sup> To date no new births have been officially recorded in the civil registry since 2017.<sup>82</sup>

A facilitator teaches a group of Rohingya refugee mothers how to breast feed their babies with different positions in Cox's Bazar District, Bangladesh.



Under Bangladesh's Citizenship Act, enacted in 1951, every person born in the country after the Act came in to effect is a citizen of the country by birth.<sup>83</sup> In theory, this should mean that Rohingya children born in Bangladesh should be automatically granted citizenship; however, in practice, this provision is not implemented. As a result, Rohingya children born in Bangladesh to Rohingya parents are stateless. Until 2009, children who were born of mixed Bangladeshi–Rohingya marriages were not entitled to Bangladeshi citizenship if their father was not of Bangladeshi nationality. In 2009, the Act was amended to provide equal rights for men and women to transfer nationality to their children; however, the amendment does not apply retroactively, meaning that Rohingya children born in Bangladesh to stateless fathers prior to 31 December 2008 remain at risk of statelessness.<sup>84</sup> For children born since 2009, interviews indicate that the provision is not always implemented in practice.<sup>85</sup>

### ACCESS TO EDUCATION

Rohingya children's lack of status has a serious impact on their access to education. The Bangladesh government bars refugee children from accessing formal education and, as a result, Rohingya children are not permitted to enrol in public education institutions; even where they can access informal education, they are not allowed to obtain certification or formal qualifications. For Bangladeshi authorities, the policy appears to be aimed at reinforcing the message that the presence of the Rohingya in the country is temporary, while simultaneously discouraging new arrivals. However, in discussions with Save the Children and others, Rohingya refugees have consistently asserted their desire to return to Myanmar when conditions are safe to do so, indicating that they see education in Bangladesh as a way to improve their prospects once they are able to return.

Bangladesh's informal policy of restricting refugees' access to education dates back several decades, while 'registered' refugees who have been in the country since the 1990s – as well as their children – have similarly struggled to access formal schooling.<sup>86</sup> Since 2007, the government began allowing registered refugee children to learn a non-formal, English language version of the Bangladeshi curriculum, however education was not certified and students were not permitted to take national exams.<sup>87</sup> As a result, some children of 'registered' refugees who speak Bangla obtained

Bangladeshi documents and sought education in nearby government schools. However, scores of such students were expelled from schools following an investigation by the authorities in 2019.<sup>88</sup>

With access to formal education prohibited, UN agencies and NGOs have had to step in to provide non-formal education to Rohingya children. The political sensitivities involved mean that instead of 'schools', children study in "temporary learning centres" (TLCs), which are semi-permanent structures made of bamboo as opposed to more durable brick-and-mortar structures. Across the congested camps, there are around 3,000 such centres for the estimated 325,764 children and youth aged 2–24 who need education services.<sup>89</sup> TLCs are crowded, offering only limited daily hours of schooling, and generally include children from a range of ages in a single class.<sup>90</sup> Despite these efforts however, some 83% of youth and adolescents in the camps do not have access to any education.<sup>91</sup> Bangladeshi authorities are also extremely sensitive about education that could imply integration of refugees in the country, and, as a result, instruction in Bangla or the use of the Bangladeshi curriculum is banned.

While there is greater provision for primary-level education, opportunities for secondary level education are much more limited. Only 13% of boys and just 2% of girls aged 15–18 are in school.<sup>92</sup> Girls are much less likely than boys to continue education after the age of 10. There are few teaching staff who have themselves completed high school education and are qualified to support learners' secondary education. Children with disabilities also struggle to access adequate education in the camps as there are even fewer teaching staff with sufficient training to provide specialist support for their learning requirements.<sup>93</sup> Meanwhile, for children with physical disabilities – in particular, mobility issues – the geography of the camps (which are hilly, uneven, and prone to flooding and mudslides in the monsoon) makes it difficult to physically access learning centres.<sup>94</sup>

In a positive move, and following concerted pressure by NGOs and the UN, in January 2020 the Bangladeshi authorities approved the introduction of the Myanmar curriculum in camp learning centres. A pilot, involving 10,000 students from grades 6–9 (11–13 years old) was due to start in April 2020, and would then have been expanded to grades 10 and 11.<sup>95</sup> However, the pilot was halted after the Covid-19 pandemic forced all education centres in the camps to close.<sup>96</sup> While the initiative marks a

step forwards for refugees' access to education, several challenges remain, not least that it is still unclear whether the Myanmar government will agree to accreditation of the curriculum. Even once the pilot is operational, hundreds of thousands of students will still be unable to access to quality, comprehensive education.

In response to the gaps in formal education opportunities, small networks of community educators have emerged, made up of well-educated Rohingya refugees and often financially supported by the diaspora. These networks have sought to provide education to children of all age groups, usually through private learning centres or madrasas, often using the Myanmar curriculum, which is refugees' preferred curriculum.<sup>97</sup> However, these networks have struggled with limited financial resources, access to materials, and lack of teachers and training.<sup>98</sup> In addition, the legal status of their activities remains unclear, and, as a result, many operate discreetly – at times suspending their work in the event of security concerns.<sup>99</sup>

The COVID-19 pandemic has further impacted children's access to education. From March 2020, in an attempt to contain the virus, all learning centres in the camps were closed (as were schools across the country). As of April 2021, these learning centres remained closed, meaning that students have missed out on more than a year of education. The closure of learning centres has repercussions beyond further restricting children's access to education. Children who usually attend classes have no longer been receiving nutritious meals daily, which can have a devastating impact on their physical development.<sup>100</sup> Learning centres can also provide important respite from the stresses of family life, and can reduce the risk of domestic violence, as well as providing important routine and structure for children who have experienced trauma. Their closure will have exacerbated problems for these children.

## PROTECTION CONCERNS

Rohingya children living in the refugee camps in Bangladesh face a range of protection concerns. Confined in the camps, with restricted movement and limited opportunities, they are vulnerable to physical and domestic violence, depression and other mental health issues, drug and alcohol use, and involvement in petty crime. Girls are especially at risk of sexual exploitation and early marriage or being trafficked to other countries for arranged

marriages. The ban on refugees being able to work has severe adverse impacts on families' socio-economic situation, especially if relatives are arrested and detained. Lack of access to income generating opportunities exposes children to child labour and human trafficking, and can also lead to involvement in criminal activities, which in turn place children at risk of arrest and detention.

Many of these concerns have been exacerbated by the COVID-19 pandemic. Since March 2020, the Bangladeshi government has limited movement into and within the refugee camps, as well as the wider Cox's Bazar District and all activities other than critical, life-saving services were suspended. Child protection activities, counselling and psychosocial support, and mediation and legal support services all ground to a halt, placing already vulnerable children at increased risk. The situation was compounded by a suspension of mobile internet access in the camps until August 2020, which increased challenges in monitoring the situation.

As of April 2021, the second wave of COVID-19 had hit Bangladesh with the number of people testing and the number of deaths nearly doubled the number reported in June 2020 at the first wave. Fortunately, the infection rate in the Rohingya refugee camps has remained low and refugees have so far been spared the effects of an outbreak. However, the government – which had begun relaxing restrictions on aid and assistance – has again suspended all humanitarian services. Once again, only 'critical services' are allowed, meaning that children do not have access to key protection activities, counselling and legal support services.

In recent months, fire has become a serious threat for all refugees after a major blaze displaced more than 48,000 refugees and burnt their homes to ashes.<sup>101</sup> At least 11 people were killed and hundreds injured in the blaze. The incident and other fires have highlighted concerns about fencing around the refugee camps, which not only restrict Rohingya people's freedom of movement, but may also have prevented refugees escaping to safety when the fire broke out.<sup>102</sup>

Another major child protection issue is the number of unaccompanied and separated children living in the camps. According to the UN, as of September 2019, there were more than 8,500 such children.<sup>103</sup> Reasons for family separation vary; however, it often occurs while families are fleeing conflict, or when one or more relatives travel to other



PHOTO: JUMMAY HABIBA/SAVE THE CHILDREN

The aftermath of the blaze that swept through the Rohingya camps in Cox's Bazar, Bangladesh on 22nd March 2021. There were 84 fires in the camps during just the first four months on 2021.

countries in search of asylum or livelihood opportunities. Without parents or guardians, unaccompanied and separated children face multiple protection risks. Family separation can also have devastating impacts on children's emotional and psychological wellbeing. In order to reduce these risks, efforts to trace family members and support family reunification are critical.

From the early days of the 2017 crisis, Bangladesh kept its border open, allowing refugees to seek safety and shelter in the country. This has continued, even after the most violent period of military atrocities had passed, offering a vital refuge for fleeing Rohingya. At the same time, Bangladesh has asserted that Rohingya people's right to return to Myanmar and has pushed for repatriation at the earliest opportunity. In November 2017, Myanmar and Bangladesh agreed to begin the process of repatriation of refugees who fled Myanmar since October 2016.<sup>104</sup> Despite attempts to begin the process in November 2018 and August 2019, to date there have been no official returns, with refugees maintaining that the situation in Myanmar is not yet safe.<sup>105</sup>

The poor situation in the camps in Bangladesh, combined with the unlikely short- to mid-term

prospects of return to Myanmar, have prompted some Rohingya to attempt to leave the camps, boarding boats often in an attempt to get to Malaysia. As previously noted, these journeys are extremely dangerous and expose Rohingya, including children, to serious risk to their lives and physical security. At the same time, Bangladesh is pushing forward with efforts to relocate up to 100,000 refugees to the remote island of Bhasan Char. There remain questions about the suitability of the island to host a refugee population, in particular questions around Rohingya's freedom of movement, access to healthcare, education, and livelihood opportunities. There have also been concerns about the lack of consultation with the refugees themselves prior to relocation. In December 2020, Bangladeshi authorities began relocating refugees to the area, and to date more than 14,000 people – including children – have been transferred there from Cox's Bazar.<sup>106</sup> In March 2021, the government of Bangladesh allowed a UN delegation to assess the conditions on the island, followed by a visit of diplomatic representatives from the European Union (EU), the United States of America (USA) and other states. However, the UN asserts that further visits will be needed to determine how best to support refugees relocated to the island.

### 3.3 MALAYSIA

#### ROHINGYA CHILDREN IN MALAYSIA

**Ali\* is 16. He left his home in a ‘displacement’ camp in Sittwe, Rakhine State in late November 2020, bound for Malaysia where he hoped to join his father and find work to support his family. Arriving just as Malaysia went into lockdown because of the pandemic, he has struggled to get official documentation, which has had knock-on impacts for his safety and security.**

*When I came to Malaysia, I thought that I could find a job and would be able to support to my mother and sisters back in Myanmar. I want to help my mother get good medical treatment and support my three sisters to get education I work as a plumber and repair pipes on the road. If I have work, I go to work. If I don't, I stay at home – I don't go outside if I don't have work because I am afraid of being arrested as I don't have UNHCR card. . People told me that I need to have a UNHCR card to get a job and to have protection but once I arrived here, the lockdown started [and I couldn't get the card]... The situation became hard for my survival.”*

*I went to school until grade 2 while I was in Myanmar, but I had to drop out and work to support my family. I wanted to go to school here but I am not able to because of our financial difficulties. Rich people can send their children to school, but my parents are poor so they are not able to. If I was educated, I wouldn't need to work like this. I could become an engineer. When I see other children are going to school, I feel so sad.*

**15-year-old Hamid\* left Bangladesh with his father in March 2020, bound for Malaysia. They were at sea for seven months before the boat landed in Aceh, Indonesia. Shortly before they came ashore Hamid's father died leaving him – then 14 years old– without a parent or guardian to protect him. After arriving in Indonesia, he embarked on a precarious journey, aided by human traffickers – to join his relatives who live in Malaysia, arriving in January 2021.**

*When my father died on the boat, I felt so sad and cried a lot. After I reached Indonesia I missed him so much, I cried every day for three months. When all people from our boat came to Malaysia, I also decided to go with them. I came here in January 2021. When I arrived in Malaysia water, I was arrested by police. The police detained me and the other Rohingya. I worried for my security... I was afraid of being imprisoned for a long time. After two weeks, the police handed over us over to UNHCR and UNHCR sent us to community office.*

*Now I live with my uncle, who was my father's oldest brother. He pays school fees for me. I go to a community school in Selangor. I am studying at the kindergarten – because I could not go to school in Myanmar, I need to study here at the kindergarten. I like learning and am studying English and Arabic. I want to get a good education to improve my life. I want to be resettled to a third country to get a good education as I cannot get proper education here. If I can be resettled to a third country, I can learn a lot of things and become a doctor or an engineer.*

While Malaysia is home to refugees from across Myanmar, and across the world, the Rohingya are the by far the largest population. According to UNCHR, there are 102,560 officially registered Rohingya refugees in the country.<sup>107</sup> However Rohingya groups estimate there several thousand unregistered refugees also living in the country, including Rohingya children. The population is made up of a combination of new arrivals – that

is, people who arrived since the 2015 Andaman Sea boat crisis – and first, second, and even third generation refugees living in situations of protracted displacement. For many Rohingya the presence of a large Rohingya population, links with family, friends, and former neighbours, and the possibility for informal work makes Malaysia an attractive destination.

## LEGAL STATUS

Rohingya refugees – like all refugees in Malaysia – are not officially recognised as such and instead are considered ‘illegal’ migrants under the country’s Immigration Act. Despite this, authorities do allow refugees and asylum seekers to register with UNHCR, and those who are given a UNHCR identity card are offered some basic legal protections. In practice, the large numbers of people seeking asylum means that obtaining a UNHCR card can be a lengthy process, although the agency prioritises registration of vulnerable people (including separated or unaccompanied children) as well as those in detention.

While they are awaiting formal registration, refugees are given an official ‘under consideration’ letter, which informs the authorities that UNHCR is assessing their claim to being a person of concern. Neither the card nor the letter grants any official legal status in Malaysia, meaning that all refugees in the country – including children – are at risk of arrest, detention, deportation, and *refoulement*. The Malaysian government has repeatedly asserted that card-holders have no special status, telling local media in April 2020: “Rohingya nationals who are holders of the United Nations High Commissioner for Refugees (UNHCR) card have no status, rights or basis to make any claims on the government.”<sup>108</sup> However, in practice, having a documentation from UNHCR is a vital source of protection, and its importance to Rohingya refugees cannot be overstated.

On paper, Malaysia has laws that should protect Rohingya children born in the country from statelessness, and Article 14 of the Federal Constitution entitles any person born in the country, who is not already a citizen of any other country, to Malaysian citizenship.<sup>109</sup> In practice, this provision is not implemented for stateless children born in Malaysia – including Rohingya children – and most have no formal legal status in the country. Even those children whose families have lived Malaysia for two or three generations are unable to acquire citizenship. Children born to Rohingya-Malaysian marriages, who are also legally entitled Malaysian citizenship, also experience difficulties in obtaining documentation.<sup>110</sup>

While Malaysia refuses to grant Rohingya children – and other refugee children – official legal status in the country, for the most part, those born in Malaysia are able to obtain birth certificates to confirm their date and place of birth, as well as the

identity of their parents. To do so requires a letter from the hospital or clinic where the child was born, which should be taken to the National Registration Department (*Jabatan Pendaftaran Negara*, JPN) to be officially recorded by the government. For Rohingya, the primary use of a birth certificate is to obtain registration with UNHCR (its child protection policy requires a birth certificate in order for the agency to be able to register children born in Malaysia to their parents).<sup>111</sup>

However, access to birth registration can, in some cases, be undermined by difficulties experienced by pregnant Rohingya women in accessing healthcare. While Malaysian nationals pay around 100 ringgit (\$25) for delivery services, the fee for foreigners is around 8,000 ringgit (\$2,000) – an amount that is impossible for refugees and economically disadvantaged migrants to pay. In June 2005, the Ministry of Health recognised the need for more affordable healthcare for refugees, and entered into a formal agreement with UNHCR Malaysia to allow UN-registered refugees and ‘persons of concern’ a 50% discount on healthcare services at government hospitals. Even with the discount though, refugees often still struggle to pay, especially as they do not have the right to work in Malaysia. In some hospitals, staff claim that they do not accept UNHCR ‘under consideration’ letters and tell women to come back after they have been officially registered with the agency.<sup>112</sup> Unregistered Rohingya are not eligible for the discount, and the costs – when coupled with the risk of arrest for being ‘illegal’ migrants – can prevent pregnant women from seeking assistance in medical facilities. This not only impacts prospects for birth registration but it also poses risks to the mother and child in the event of pregnancy-related complications, as well as children’s access to timely vaccinations.

## ACCESS TO EDUCATION

Malaysian government policy prohibits refugee children and the children of undocumented migrant workers from attending public schools. This has devastating consequences for Rohingya children, and applies regardless of whether they have just arrived in the country or belong to families who have lived in Malaysia for several generations. As in other countries, lack of access to formal education limits children’s future opportunities, exposing them to informal and exploitative work.

In the absence of access to government schools, it has been left to NGOs, faith-based organizations,

and UNHCR to provide informal education through a parallel informal system of learning centres and madrassas. However, despite these efforts, such centres are often seriously under-resourced and lack adequate facilities, qualified teachers and teaching materials.<sup>113</sup> Parents also struggle to afford education for their children, whether it is paying school fees, covering the costs of textbooks or other materials, or paying for transport to and from school. Lack of resources – in particular for special facilities or specialised teaching – also means that children with disabilities often miss out on education.<sup>114</sup> While disaggregated figures for Rohingya refugees are unavailable, according to UNHCR only 30% of school-aged child refugees are enrolled in informal community learning centres.<sup>115</sup>

While Rohingya children have greater access to primary education, access to secondary education is much more challenging, in large part because of the costs associated with secondary education and the limited number of facilities. The situation underscores the impact that lack of income-generating activities has on Rohingya families. Informal education is not recognised or accredited by the government, which means that young adolescents leave learning centres without official qualifications and with limited opportunities to move on to higher education and improve their future prospects.<sup>116</sup> With fewer children receiving secondary education, it is more likely that children (and particularly boys) will be pushed into informal, exploitative work or become involved in criminal or drugs-related activities. Of course, this then further exposes them to arrest and detention by the Malaysian authorities.

As in other countries, Rohingya girls are more likely than boys to miss out on education, particularly as they approach puberty. Rohingya girls at secondary-level education are less likely to be enrolled in learning centres than boys. In 2018, UNHCR reported that of the 1,300 refugee youths enrolled in secondary education, only half were girls, and of these, just 5% were Rohingya girls.<sup>117</sup> Cultural or community attitudes to girls' education, expectations of support at home, and costs associated with school all play a role in this.

### PROTECTION CONCERNS

For Rohingya living in Malaysia, a key concern is the risk of arrest and detention. While all Rohingya refugees in Malaysia are vulnerable to arrest and detention, the risks are even more acute for undocumented Rohingya, including children. Malaysian

authorities frequently conduct immigration raids in an attempt to round up 'illegal' migrants, targeting men and older boys engaged in informal work.<sup>118</sup> Such arrests have increased in the past year, in particular as the government has imposed Movement Control Orders (MCOs) as part of its response to the COVID-19 pandemic.<sup>119</sup> The detention of male relatives, who are often the primary breadwinners of the family, places Rohingya children in an even more precarious situation, exposing them to child labour, exploitation and abuse.

In general, Rohingya children, women and older people are reported to be stopped less frequently than men, suggesting that there is at least some sympathy from officials. However, there is an alarming number of cases of undocumented children being detained in the country. In late October 2020, the Ministry of Home Affairs confirmed that 756 children were being held in immigration detention centres. Of these, 326 were children from Myanmar – most of them believed to be Rohingya – who were being detained without their parents or guardians.<sup>120</sup>

When undocumented children are detained, there is no distinction between them and adults, and those under the age of 12 are held in immigration detention centres with adult women, while boys who are 13 or over are held with adult men.<sup>121</sup> There are no provisions for keeping family members together, meaning that children are often separated from their relatives. Conditions in immigration detention centres are poor, characterised by severe overcrowding, poor sanitation, insufficient access to nutritious food and healthcare and risk of physical abuse by Immigration Detention Centre (IDC) staff. In the first six months of 2020, 23 people – including two children – died while in an immigration detention centre.<sup>122</sup> Also, children have no access to education, play, or other services to meet their specific needs.<sup>123</sup> The situation for undocumented children in detention has become even more precarious since August 2019, as the Malaysian government has denied UNHCR access to immigration detention centres.<sup>124</sup> The move comes in the context of a wider crackdown in immigration and has made it extremely difficult for the agency to identify and register detained children and secure their release. As of early December 2020, 457 people registered with UNHCR were reported to be held in immigration detention centres, including 62 unaccompanied and separated children.<sup>125</sup>

## 3.4 THAILAND

### ROHINGYA CHILDREN IN THAILAND

**Rafique\* is 16 years old. He left Myanmar in November 2019, and like many refugees, undertook a dangerous overland journey through Myanmar and Thailand before reaching his final destination of Malaysia. He was arrested while travelling through Thailand, released only after a human trafficker intervened.**

*I left Rakhine State in September 2019. I took a boat for three days, and then we had to walk through the jungle for 56 days... After, we were taken by car to stay in the mountains, then we were taken to Yangon. I stayed there for 13 days, then we were taken overland to Mawlamyine. It took a day – that same night, we began travelling to Thailand.*

*The next morning, we arrived in Thailand and began the journey to Malaysia. After one hour, we were arrested by police. We were held in police custody for a day – the agent [human trafficker] helped release us. Then we took a car train, and another car to the Malaysian border. Once in Malaysia, we took a bus to Kuala Lumpur.*

*The journey was very risky. One of us – I think she was 18 years old – died on the way. While I was in the jungle, I could not get proper food – I could only eat leaves and bamboo shoots. It was so terrible... I thought I would die.*

Accurate estimates of the number of Rohingya in Thailand are difficult to obtain, in large part because many of those who arrive in the country do so *en route* to Malaysia or other destination countries. Current estimates put the number of Rohingya in Thailand at between 3,000 and 15,000. However conditions in Thailand means that undocumented Rohingya in the country are discouraged from identifying themselves openly, and often refer to themselves as Myanmar Muslims.<sup>126</sup>

### LEGAL STATUS

Rohingya in Thailand generally fall into one of three categories: officially recognised victims of human trafficking, most of whom live in government shelters; documented migrant workers, most of whom have lived in Thailand for over a decade; and undocumented Rohingya – both new and less recent arrivals – who live mainly in urban areas. While the situation in Myanmar means that most (if not all) Rohingya in Thailand would qualify as refugees, Thailand's lack of a legal framework for refugees, coupled with political sensitivities around the Rohingya (the result of Thailand's close relationship with and proximity to Myanmar) mean that they are not considered among the unofficial refugee population in the country. This has several negative impacts, including making it difficult for NGOs in Thailand working specifically on refugee rights to offer support and assistance.<sup>127</sup>

While the Thai authorities are reluctant to recognise Rohingya as refugees, they do recognize the group as being in need of protection. One way this has been achieved has been through the 2015 Anti-Human Trafficking Act, which empowers authorities to determine whether an individual is a victim of human trafficking. Such a designation means that instead of being viewed as 'illegal' migrants and at risk of detention in immigration detention centres, Rohingya are instead taken to government shelters where they are registered, afforded witness protection if they are involved in legal cases against human traffickers, and kept until they can be resettled a third country.

While being identified as a victim of human trafficking offers some form of protection, in practice, the threshold for such a determination can be high, and often requires evidence – such as discovery in a jungle camp or other detention site, or identification and/or capture of those responsible – which can be difficult to obtain.<sup>128</sup> Those who are not identified as victims of human trafficking are labelled 'illegal' migrants and sent to immigration detention centres. There are also reports that in recent years, Thai authorities have become more reluctant to recognize Rohingya as Rohingya or as victims of human trafficking, instead claiming that they are 'Myanmar Muslims', or else that they crossed into Thailand

## REFUGEES IN THAILAND

According to UNHCR, there are currently some 97,000 refugees in Thailand, most of whom are ethnic Karen and Karenni from Myanmar who live in nine camps on the Thailand–Myanmar border. There are also an estimated 5,000 refugees and asylum-seekers living in Bangkok and surrounding urban areas.<sup>129</sup>

While Thailand has long accommodated refugees from Myanmar along its border with the country, and allowed them official refugee status and protection, refugees living outside of these camps and in other parts of the country are not officially recognised or granted any formal legal status. Instead, they are treated as ‘aliens’ under the country’s 1979 Immigration Act and, if found to be in breach of its provisions (for example, by entering or staying in the country without permission) are subject to arrest, detention and deportation.<sup>130</sup> Despite this, the Immigration Act grants the Minister of Interior considerable latitude to allow ‘aliens’ to remain in Thailand, so in practice, this has allowed the Thai authorities to establish several different

avenues through which migrant workers, victims of human trafficking, and UNHCR-registered refugees and asylum-seekers can stay in the country, albeit temporarily.

There are currently moves to establish a national framework regulating the status of refugees in the country, and on 24 December 2019, the Royal Thai Government approved a regulation establishing a National Screening Mechanism (NSM), which would enable the authorities to distinguish people in need of international protection from economic and other regular migrants. While there are concerns about some aspects of the regulation,<sup>131</sup> there are hopes that it could lead to an improvement in the protection of refugees and asylum seekers in the country, however implementation has been delayed as a result of the COVID-19 pandemic.<sup>132</sup> As it stands, however, Rohingya would likely be excluded from assessment under the NSM because, according to the government, they pose risks to ‘national security’.<sup>133</sup>

at the hands of human smugglers as opposed to human traffickers.<sup>134</sup>

Other Rohingya in Thailand, particularly those who arrived in the country prior to the 2015 Andaman sea boat crisis, have sought to stay in Thailand by registering as migrant workers. Undocumented migrants from Myanmar, Cambodia and Lao People’s Democratic Republic (Lao PDR) have been able to regularize their status through a ‘nationality verification’ process, which grants them basic legal rights in the country.<sup>135</sup> Children born to these parents can obtain official documentation confirming they are the children of migrant workers, and this entitles them to access education, healthcare, and other services. Application for migrant worker status can be challenging, however, as it can require identity documentation that many Rohingya simply do not have. The risk of rejection – and thus possible detention or deportation – means that some choose not to apply, leaving them vulnerable to arrest and detention.

Under Thai law, all children born in the country have the right to birth registration, regardless of their or their parents’ nationality, legal or other status.<sup>136</sup> While birth registration is generally easy to obtain for Rohingya children whose parents have secured regularised legal status in Thailand, for those whose parents are undocumented, interacting with authorities to obtain such documentation can place them at risk of arrest and detention under the country’s Immigration Act.<sup>137</sup>

In Thailand, birth registration and the provision of a birth certificate does not confer citizenship rights and children born in Thailand who would otherwise be stateless are not automatically entitled to Thai nationality. Only children who have one or more parents who is a Thai national, or who are born in Thailand to non-Thai parents with permanent residency, automatically acquire nationality at birth. While children born in Thailand to parents who do not have permanent residency can apply for nationality, they must meet certain eligibility criteria, which in practice can be difficult

to achieve.<sup>138</sup> Under Thailand's Nationality Act, children whose parents are irregular migrants are ineligible to acquire nationality.<sup>139</sup> As a result, most of the Rohingya children born in Thailand are not eligible for citizenship and remain stateless, and grow up at risk of arrest and detention.

### ACCESS TO EDUCATION

Official Thai government policy states that all children in the country have the right to access basic education without discrimination and regardless of legal status.<sup>140</sup> The 2005 Cabinet Resolution on Education for Unregistered Persons explicitly obliges all schools and educational institutions to admit any child for education, regardless of their nationality, legal or documentation status. Under the policy, there are no restrictions on the level of education, and education up to secondary level is provided free of charge. Students are eligible for national exams, and on successful completion of their studies are given graduation certificates which enable them to apply for higher education.

On paper, the policy is a progressive step towards ensuring education for all, and for the Rohingya who have settled in Thailand, it offers an important opportunity to create a better future for their children. However, for refugees, victims of human

trafficking and migrant families, implementation can be patchy. Interviewees explained that this is largely because decisions on enrolment are left to the discretion of individual schools. In some cases, they explained, headteachers are unsure whether enrolment is permitted, while others may reject students on discriminatory grounds.<sup>141</sup> Another challenge is that Thai is the primary language of instruction. While younger Rohingya children can find it easier to adapt to learning in a new language, for older children who speak little or no Thai, understanding lessons is virtually impossible, leading to frustration and apathy. According to UNICEF, while the policy has enabled some 150,000 migrant children to enrol in public schools, an estimated 200,000 migrant children remain out of school.<sup>142</sup>

The policy is also not applied consistently for child victims of human trafficking living in government shelters. For these children, education is generally informal and provided by NGOs, which run classes within the shelters. Such education is generally better for primary-level children, although there are some unaccredited vocational courses and training available to older children too. A major challenge, however, is that having been denied education in Myanmar, many Rohingya children (and some adults) who arrive at the shelters lack basic literacy



11-year-old Nora\* is reading in a shelter for children in Thailand. She was intercepted by Thai police while attempting to flee from Myanmar to Malaysia to join her family there.

and numeracy skills, and need additional support, which is both time and resource intensive.<sup>143</sup> With education services inside shelters exhausted, NGO workers have sought alternatives outside, and explained that in some cases, Rohingya children had been successfully enrolled in local schools. However, the process was not straightforward, was time consuming, and could be complicated by the lack of clarity over how long a child is likely to stay at a shelter.

As in other countries, the COVID-19 pandemic has had a negative impact on access to education for all children, with schools closed as part of efforts to contain the virus. Classes have increasingly moved online, although children from poor families – including those from migrant and refugee communities – often lack the resources to participate in online learning. As well as the digital divide, the pandemic has also forced some children from poorer migrant families to leave school to help their families to earn money.<sup>144</sup>

### PROTECTION CONCERNS

Without legal status in Thailand, Rohingya are at risk of arrest and detention in immigration detention centres. Conditions in these centres are poor, and there are serious concerns about overcrowding, lack of sanitation, and inadequate access to services. While most ‘illegal’ migrants from other countries are taken to detention centres and then deported, this option is generally not open to Rohingya, who either have to wait for third country resettlement or – more often – are subject to long-term and indefinite detention in the centres.

Until 2019, Thai immigration policy meant that undocumented children were treated the same as “illegal” adults, and detained in immigration shelters. However, on 21 January 2019, following significant pressure from national and international NGOs and UN agencies, the Royal Thai Government signed a *Memorandum of Understanding on the Determination of Measures and Approaches Alternative to Detention of Children in Immigration Detention Centers* which affirmed that children would no longer be held in IDCs.<sup>146</sup> Under the policy, undocumented children are moved to shelters run by the Ministry of Social Development and Human Security (MSDHS). These shelters – while retaining unnecessary restrictions

on freedom of movement – mark a significant improvement in conditions for children, allowing them access food, shelter, medical care, and to some form of informal education.<sup>147</sup>

However, there have continued to be instances where children, including Rohingya children, have been detained in police stations – sometimes for weeks – because of a lack of capacity in the shelters.<sup>148</sup> Unaccompanied children are transferred to shelters, and are generally looked after by distant relatives, people from their original village, or respected community members. Worryingly, Rohingya children between the ages of 16 and 17, in particular boys, are especially at risk of being held in police stations or sent to immigration detention centres, as they lack any form of documentation that proves their age.

Another concern in shelters is the separation of children from family members. While Thailand has made some efforts to release adults from detention centres, these have generally been mothers and older female relatives, and their release requires payment of a 50,000 Thai Baht (US\$1,600) “bond”.<sup>149</sup> Many families simply cannot afford to pay such a sum. Shelters are segregated by gender, and while girls and young children are generally able to stay with their mothers, boys over the age of 14 are moved to different shelters, separating them from their families.<sup>150</sup> As well as raising protections concerns, such separation can have a significant emotional and psychological impact on the children concerned, and is clearly not in their best interests.

Rohingya who arrive in Thailand by boat are also at risk of being denied safe disembarkation, as Thailand maintains a longstanding ‘push-back’ policy, whereby authorities prevent boats carrying asylum-seekers and migrants from landing on Thai shores and instead provide them with limited food and water, and – at times – escort them out of the country’s territorial waters. At an emergency regional summit in May 2015, Thai authorities stated that they would no longer push stranded and abandoned boats out to sea. However, since then, authorities have been accused of failing to take action to assist boats in distress, while there have also been reports of ‘push-backs’, which constitute a violation of the principle of *non-refoulement*.<sup>151</sup>

## 3.5 INDONESIA

### ROHINGYA CHILDREN IN INDONESIA

**Amina\* is 11 years old, and together with her mother, two sisters, and brother, left the refugee camps in Bangladesh to try and reach Malaysia, where her father has been working since she was born. They arrived in Aceh, Indonesia, in September 2020 after several months at sea.**

*I was so tired when I arrived, I could hardly think. We were at sea for months. The boat was so small. There was barely any food and when I wanted to drink there was not enough water. My body itched because I couldn't take a shower.*

*I want to go to Malaysia to meet my father. I haven't seen him since I was born, 11 years ago. I miss him and I only can communicate with him via video calls. Initially I thought I had arrived in Malaysia... when I found out that I arrived in Aceh it broke my heart because I could not meet him. I want to be with him... I want to have a complete family like everyone else.*

**11-year old Karima\* arrived in Aceh in June 2020 with her mother, older sister, and grandfather. Originally, the family had been trying to get to Malaysia to live with Karima's father.**

*We arrived in Aceh by boat, hungry and thirsty. I didn't know how long I had been at the sea, I only remembered that our condition was very sad. My*

*mom told me we were going to meet my father in Malaysia. At first, I didn't know we had arrived in Aceh.*

*We left my grandmother and some other family members in Bangladesh. Sometimes I miss my grandmother so bad... The people here treated us kindly, like we were their family. Now, we live in the refugee camp. I am happy here because I have many friends. I go to school at the camp with other children and learn the Qur'an, Bahasa and English. At first it was difficult because I didn't understand the language and didn't know how to communicate when I needed something. After school I go home to have lunch then afterwards I play. I like to play jump rope and hit and run. I also like riding the bicycle. I have a local friend here and his name is Navis. We often play together.*

*When I grow up I have three goals: first, I want to be a religion and English teacher so I can teach many of my friends. Second, I want to be a tailor so that many people can wear nice clothes. Third, I want to become a policewoman to protect good people from bad people. And I especially want my family and I to have the freedom to be able to determine our future independently even though I don't have citizenship.*

Indonesia has been home to a small number of Rohingya refugees since the 1970s. However, it was not until 2015 that the country began receiving large-scale arrivals. In May 2015, two boats carrying nearly 1,000 Rohingya refugees and 800 Bangladeshi migrants landed on the coast of Aceh, in the west of the country.<sup>152</sup> Indonesian authorities had initially refused to allow the boats to land, and like their counterparts in Thailand and Malaysia, the navy had provided the group with food and water before pushing the boats back to sea. However, when regional governments continued to prevent the boats from landing, and the situation

of those on board became increasingly more desperate, Acehnese fishermen intervened, rescuing the boats and bringing the passengers to shore.

After the initial crisis abated, the number of new arrivals slowed considerably although boats have periodically continued to land off the Acehnese coast. As well as those living in shelters in Aceh – whose numbers fluctuate as new arrivals move on to Malaysia – several hundred other Rohingya are believed to be among the more than 13,000 officially registered refugees living in shelters across the country.<sup>153</sup>

## LEGAL STATUS

Although Indonesia has yet to ratify the UN Refugee Convention, the country does officially recognize the right to seek asylum and grants legal status to refugees. This is done primarily through UNHCR, which is able to process claims; issue formal documentation – initially a paper UNHCR Certificate, and then upon determination of refugee status, a UNHCR photo ID card; and refer cases for third-country resettlement. In Aceh, where most new Rohingya refugees arrive, registration is undertaken separately by both the police and UNHCR, seemingly because Indonesian security forces view the group as a threat to security.<sup>154</sup> Those who are not recognized as refugees are considered ‘illegal’ migrants and risk arrest and detention in immigration detention centres, however this is generally more of a concern to other refugee communities, because given the persecution that Rohingya flee in Myanmar to escape, registration with UNHCR in Indonesia is generally straightforward.

In 2016 the authorities issued Presidential Regulation 125/2016, which provides information and guidance on the treatment of refugees in the country. The definition of a refugee (within the regulation) is largely consistent with the definition contained in Article 1(a) of the Refugee Convention, and it includes several important provisions relating to the rights of refugees in the country.<sup>155</sup> The regulation also makes specific reference to children as a group with special needs, and asserts that care be provided “with the best interest of the child in mind”.<sup>156</sup>

As well as official registration with UNHCR, all refugee children in Indonesia have the right to universal birth registration.<sup>157</sup> However, registration of a birth does not confer the rights and entitlements of citizens. When a refugee child is born, their parents obtain a letter from the hospital or clinic where they were born and submit this to UNHCR, which in turn informs the civil registration office.<sup>158</sup> In practice, implementation is not always consistent, in particular because different civil registries are not always aware of official policy.<sup>159</sup> There is also reluctance among some officials that granting refugee birth certificates may spark calls for citizenship rights. The sometimes patchy nature of birth registration is further complicated by a lack of understanding about its importance among the Rohingya refugee community themselves. For families who plan to move on to Malaysia,

registration in Indonesia is often not seen as a priority.

To complicate matters further, since the COVID-19 pandemic, there have been challenges to registering refugee children on official Indonesian government systems. All registrations now need to be done online, and require an Indonesian passport or ID number; however, UNHCR cards do not assign such a number. As a result, no new refugee births were registered in 2020 – a situation that must be urgently addressed.<sup>160</sup>

While most refugee children in Indonesia do not have the right to citizenship, under Article 4 of Indonesia’s Citizenship Act, children born to stateless parents or who have one Indonesian parent (regardless of the parent’s gender) are entitled to Indonesian citizenship. Since Rohingya have been effectively rendered stateless by the Myanmar authorities, Rohingya children born in Indonesia are therefore, by law, entitled to Indonesian citizenship.<sup>161</sup> In practice, however, this provision is not effectively enforced, and there are gaps in implementing regulations that could provide more guidance to local authorities and officials. Also, in the relatively few cases where Rohingya are born in Indonesia, parents are generally hoping to travel to Malaysia or be resettled to a third country, and are therefore reluctant to pursue Indonesian citizenship for their children.

## ACCESS TO EDUCATION

Officially, refugee children are able to access formal education in Indonesia, and this right was most recently asserted in a 2018 circular letter by the Ministry of Education, which specifically states that refugees are permitted to attend primary and secondary schools.<sup>162</sup> The circular is clear, however, that local education authorities must first “prioritize Indonesian children”, and to enrol in public schools, refugee children are required to show their UNHCR cards as well as a letter of recommendation from the immigration detention centre or shelter they are staying in.

Lack of funding and limited spaces in public schools are among the main barriers limiting refugee children’s access to formal education. The Indonesian government does not financially support education for refugees, and upon enrolment, students are therefore required to provide a “letter of guarantee and commitment” from an organisation agreeing to fund their costs.<sup>163</sup>

Another challenge is that many children do not speak Indonesian, although UNHCR and other organisations have sought to bridge this gap by providing language training before the start of the academic year.<sup>164</sup> Disaggregated figures are not available for Rohingya; however, as of July 2020, of the 3,796 registered refugee children in Indonesia, just 577 (15%) were enrolled in accredited national schools.<sup>165</sup>

While they are allowed to attend formal education, refugee children are not able to obtain a formal qualification. This is partly because they do not have an official Indonesian ID number, which is required to enrol in the national exams. Instead, students are given a ‘certificate of completion’, which is not an official qualification, and which the 2018 government circular makes clear cannot be used to work or do business. As in other countries, the inability to move on to higher education – or to work in a profession that offers the opportunity to earn a decent living – can discourage young people from engaging in education.

Access to higher education is further complicated by a lack of clarity about whether such access is permitted. While the 2018 government circular specifically references access to primary and secondary education, it is silent on access to higher forms of education. In practice, interviewees explained that the decision to admit refugee students is left to individual private universities and education institutions.<sup>166</sup> With limited access to formal education, refugee communities – in particular around Jakarta – have established informal community schools. While these do not follow the formal curriculum, they do provide instruction in English, which is extremely desirable, particularly for those seeking third-country resettlement.

In the shelters in Aceh – where most of the Rohingya who arrive on boats live – access to formal education is even more limited, largely because of the lack of available facilities in the surrounding area. While there have been advocacy efforts to get these children enrolled in local schools, the situation is difficult because most of those in the shelters are waiting for the opportunity to move on to Malaysia, and so see little value in embarking on education in Indonesia.<sup>167</sup>

Inside the shelters, informal education is primarily provided by local NGOs, and focused on basic literacy, language instruction (often English and Indonesian), maths, science and religious education.

Classes target three age groups: 5–8-year-olds; 9–13-year-olds; and teenagers and adults who are separated into male and female groups. Already stretched resources mean there is no capacity to provide specialist facilities or teaching support for children with disabilities. While NGOs promote education for all, they report some challenges in encouraging older girls and women to access these programmes, partly because of wider cultural attitudes towards women and education, but also because many are travelling to Malaysia for arranged marriages, or in order to secure a husband, and so receiving education is not their primary aim.

### PROTECTION CONCERNS

Despite regional efforts to address human trafficking, Rohingya refugees continue to undertake perilous journeys by sea to seek a better life for themselves. In some cases, they land in Indonesia while en route to Malaysia. In 2020, at least two boats of refugees landed in Aceh, many of them carrying children: on 24 June, 99 Rohingya (56 of them children) arrived in Aceh after three months at sea, while on 7 September, 296 Rohingya (102 of them children) arrived from Bangladesh after spending seven months at sea.<sup>168</sup> Underscoring the desperate conditions facing those on these boats, three of those who arrived in September died soon after disembarking, while the refugees on board estimated that 30 had died during the journey.<sup>169</sup>

These journeys are extremely dangerous for all who undertake them, but especially so for children. Even before they reach their destination they are at risk of death, physical abuse, extortion and exploitation, not to mention the fact that most – if not all – are likely victims of human trafficking. Separated or unaccompanied children are at even greater risk. Staggeringly, of the 102 Rohingya children who arrived by boat in Aceh in September 2020, the vast majority – 86 – were separated or unaccompanied children.<sup>170</sup>

Many of the girls and young women were believed to be travelling to Malaysia as part of arranged marriages, which in turn put them at risk of early marriage as well as denial of their rights, including the right to education. In other cases, separated or unaccompanied children who arrive in Indonesia are travelling to join parents or relatives in Malaysia. However, because there are no formal legal channels for family reunification, they often

try to move on ‘illegally’ – usually at the hands of human traffickers, once again exposing them to physical abuse, extortion and exportation. Initially, refugees’ freedom of movement while living in the shelters is tightly restricted, and Indonesian security forces closely guard the building perimeters. However, after several months, security is relaxed, and authorities “turn a blind eye” when Rohingya refugees escape, often enlisting human traffickers to help them reach Malaysia.<sup>171</sup> Local NGO workers expressed dismay that there was no way of tracking or monitoring refugees, particularly refugee children, after they disappear from the shelters. For the most part, they are forced to wait until community networks in Malaysia report that a particular individual has arrived in the country safely.

The situation in the shelters themselves can also present protection concerns for children. As well as restrictions on movement, there are reports of domestic violence.<sup>172</sup> Moreover, while the Acehese community has provided support and assistance to Rohingya refugees, the generally poor economic situation in the area has sparked concerns about communal tensions unless programmes also specifically target the host community.

Refugees in Indonesia do not have the legal right to work, although they do often engage in informal income-generating activities, which puts them at increased risk of arrest if they or their places of work are raided or reported. As with other communities, men and older adolescent boys without documentation are disproportionately at risk. However, in 2018, the Director General of Immigration announced an end to the regime of detaining refugees and asylum-seekers on the basis of their legal status, and today, detained refugees are usually quickly released following intervention by UNHCR.<sup>173</sup> Despite this, and despite the clear needs of refugee communities, the Indonesian government has tended to shy away from discussion of refugees’ right to work, instead, talking about “empowering” them in exchange for financial compensation.<sup>174</sup>

# 4 Conclusion and recommendations

Rohingya across the region are in crisis. Wherever they go, and whatever they do, they face multifaceted and multi-layered discrimination and restrictions on their rights. These restrictions have a devastating human cost. Too often, Rohingya are not recognised or protected by the law, struggle to access essential services like education and healthcare, and are exposed to increased risk of exploitation and abuse. Deprived of future opportunities, Rohingya children cannot reach their full potential, and are instead condemned to further cycles of discrimination, alienation, marginalisation and exclusion.

The status quo is not sustainable. The sheer scale of this crisis and its protracted nature underscores the urgency with which regional governments must act. While the roots of the crisis – and many of the solutions – undoubtedly lie in Myanmar, governments in the region also have a responsibility to take effective action to respect and protect the rights of the Rohingya. There is a perception that individual state action to create stronger legal and protection frameworks will create a ‘pull’ factor, increasing the burden on the state in question. Yet the reality is that failing to protect the Rohingya in their territories also comes at a cost – to national

and regional security, to international reputations and relations, and often to the very principles on which a state was originally founded. These costs only increase as time goes by, and as yet another generation of Rohingya is forced to grow up amid discrimination, deprivation and disenfranchisement.

With the situation in Myanmar now extremely unstable, it is essential that all governments in the region act to protect Rohingya, wherever they are. Strong individual government action coupled with coordinated regional action is not only required, it is a moral imperative.

## Recommendations

### NATIONALITY AND IDENTITY DOCUMENTATION

Country	Stakeholder	Recommendation
Bangladesh Myanmar Malaysia Indonesia Thailand	Government	Make sure that all children born in the country have access in law, policy and practice to universal birth registration, irrespective of legal or other status, and immediately grant citizenship status to children born in the country who would otherwise be stateless.  Identify children and young adults born in the country whose births have not previously been officially registered, and take effective steps to register them and issue them with birth certificates.
Myanmar	Government	Review and revise or replace the 1982 Citizenship Act to bring it in line with international human rights law and standards.  Immediately suspend the citizenship verification process.  Remove burdensome requirements that make it difficult for Rohingya families to add their children’s names to household lists.

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Country	Stakeholder	Recommendation
Bangladesh Malaysia Indonesia Thailand	Government	Fully implement existing legal safeguards that can prevent statelessness, including by ensuring universal birth registration for all children born in the country, including refugees, asylum-seekers and migrants.
Bangladesh	Government	Officially register Rohingya children born in Bangladesh in the civil registry to make sure there is a record of their date and place of birth.  Implement existing nationality legislation to ensure that children born to one Bangladesh and one Rohingya parent, who are entitled to Bangladeshi nationality, can acquire it in practice.  Amend the 1951 Citizenship Act to allow children born to Bangladeshi mothers before 31 December 2008 to acquire Bangladeshi citizenship.
Malaysia Indonesia	Government	Remove administrative obstacles to birth registration, including by simplifying birth registration procedures, reducing documentary requirements, and de-linking birth registration with marriage registration.
Thailand Malaysia Indonesia	Government, UN, civil society	Raise awareness of the importance of birth registration among refugee, asylum-seeker and migrant communities, and provide financial and other support to families to register newborn children.
Bangladesh Myanmar Malaysia Indonesia Thailand	Government	Cooperate fully with UNHCR to enable the organization to fulfil its mandate towards stateless people, including by providing technical advice on adequate measures to eradicate all statelessness, whether <i>de jure</i> or <i>de facto</i> .
Bangladesh Malaysia Indonesia Thailand	Government	Enact a comprehensive legal framework to provide international protection for refugees and asylum-seekers in line with international human rights law and standards.
Bangladesh Malaysia Indonesia Thailand	Government	Respect the principle of <i>non-refoulement</i> and make sure that no one is transferred or coerced to move to a state or territory where their lives or safety would be at risk. All movement to a new territory or state must be voluntary, and refugees must be provided with free, accurate and unbiased information about the conditions and services available there.
Bangladesh Malaysia	Government	Put in place measures to regularize all UNHCR cardholders, permitting their legal temporary stay in the country.
Indonesia	Government	Fully implement the 2016 Presidential Regulation, and allocate sufficient financial and technical resources to do so.  Consider undertaking registration of asylum-seekers jointly with UNHCR.

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Country	Stakeholder	Recommendation
<b>Thailand</b>		<p>Implement the new National Screening Mechanism (NSM) in line with international standards and general asylum principles, and make sure it is inclusive and accessible to all peoples seeking international protection, irrespective of their ethnicity, country of origin or other status.</p> <p>Provide adequate resources and staff to implement the NSM, using competent and experienced officials, including those who have expertise on refugee law and children's rights.</p>
<b>Bangladesh Malaysia Indonesia Thailand</b>	<b>Government</b>	Always give primary consideration to the best interests of the child in all immigration and asylum processes, and make sure that unaccompanied or separated asylum-seeking children have adequate guardianship and free legal representation.
<b>Bangladesh Malaysia Indonesia Thailand</b>	<b>Government</b>	Allow refugees and asylum-seekers access to the legal employment sector
<b>Bangladesh Malaysia Indonesia Thailand</b>	<b>Third-country governments</b>	Offer to resettle refugees who are at specific risk or have relatives living in third countries who petition for family reunification.

## ACCESS TO EDUCATION

Country	Stakeholder	Recommendation
<b>Bangladesh Myanmar Malaysia Indonesia Thailand</b>	<b>Government</b>	<p>Make sure that all Rohingya children can access comprehensive, quality, safe and inclusive education, regardless of their legal or other status. Make special efforts to enable girls to access education, particularly at secondary level.</p>
<b>Myanmar</b>	<b>Government</b>	Remove all restrictions on Rohingya's freedom of movement so that children can access schools and other education facilities.
<b>Malaysia Bangladesh</b>	<b>Government</b>	Remove prohibition of refugee children accessing formal education in schools.
<b>Bangladesh Malaysia Indonesia</b>	<b>Government, UN, International NGOs (INGOs)</b>	Working with the UN, humanitarian and civil society organisations (CSOs), accredit education for refugees so that it is a pathway to formal and continuing education.
<b>Bangladesh</b>	<b>Government, UN, INGOs</b>	Review locations of schools in refugee camps to ensure accessibility for children with disabilities

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Country	Stakeholder	Recommendation
<b>Indonesia</b>	<b>Government</b>	<p>Make sure that all refugee children can access formal education free of charge.</p> <p>Issue an official government circular confirming the right of refugees to access university and other tertiary education.</p>
<b>Thailand</b>	<b>Government</b>	Instruct all school authorities, both public and private, about the right of refugee children to enrol in education, without discrimination on any grounds, including on the basis of immigration status.
<b>Bangladesh Myanmar Malaysia Indonesia Thailand</b>	<b>Government, civil society</b>	Include education on non-discrimination, equal treatment and other human rights in the national school curriculum.
<b>Bangladesh Myanmar Indonesia Thailand</b>	<b>Government</b>	Endorse and implement the Safe Schools Declaration.
<b>Bangladesh Malaysia Indonesia Thailand</b>	<b>Donors</b>	In line with the Global Compact on Refugees, make sure that funding to education promotes the full integration of refugee children and youth in national education systems, without discrimination.
<b>Bangladesh Malaysia</b>	<b>Donors, UN, INGOs</b>	Advocate (publicly and privately) for the government to lift restrictions on formal, accredited education for refugee children, from pre-primary level through to secondary school.
<b>Indonesia</b>	<b>Donors, UN, INGOs</b>	Advocate (publicly and privately) for the government to allow refugee children to sit national examinations and obtain officially recognised certification and qualifications.
<b>Bangladesh</b>	<b>Donors, UN, INGOs</b>	Improve consultation with Rohingya refugees, including parents and community educators, on education planning and developments and undertake proactive and timely dissemination of information related to education.
<b>Bangladesh Myanmar Malaysia Indonesia Thailand</b>	<b>Donors, UN, INGOs</b>	Provide financial support to Rohingya families and carers to support the indirect costs of education.
<b>Bangladesh Myanmar Malaysia Indonesia Thailand</b>	<b>Government</b>	<p>Make sure that Rohingya children can access distance learning opportunities while schools are closed, as well as other vital services including school meals, and mental health and psychosocial support.</p> <p>Make sure that Rohingya children can return to schools and learning centres as soon as it is safe to do so, then carry out learning assessments and conduct catch-up classes.</p>

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Country	Stakeholder	Recommendation
Bangladesh Myanmar Malaysia Indonesia Thailand	Donors, UN, INGOs	Allocate funds to help children access distance learning opportunities while schools and other education centres are closed. Provide them with devices for online learning, as well as developing materials that support online learning (and explain how to stay safe online).
Bangladesh Myanmar	Donors, UN, INGOs	Advocate (publicly and privately) for the authorities to refrain from imposing internet shutdowns, emphasising the negative impacts on child protection activities and access to education.

## CHILD PROTECTION

Country	Stakeholder	Recommendation
Bangladesh Myanmar Malaysia Indonesia Thailand	Government	Ensure UN agencies, humanitarian organizations, and non-governmental organizations have full and unfettered access to communities in need. Recognize child protection activities as critical and life-saving services.  Make further pledges focussed on improved access to and quality of child protection services for refugee children in view of the High-Level Official Meeting in December 2021 and the second Global Refugee Forum in 2023.
Myanmar	Government	Make sure there is full and sustained humanitarian access to Rakhine state, and streamline and standardise the process by which humanitarian and development workers obtain authorisation to travel to conflict-affected or otherwise restricted areas.
Bangladesh Malaysia Indonesia Thailand	Government	Ensure that individuals are not criminalised, detained or otherwise punished solely for their method of arrival in a country. States that detain undocumented persons, including children, in immigration or other detention centres should immediately enact policies to provide alternatives to detention.
Bangladesh Myanmar Malaysia Indonesia Thailand	Government, UN, civil society	Monitor places of detention to identify detained children; to the extent that reliable screening, identification and age assessment procedures are not provided by authorities, governments should ensure independent monitoring of places of detention to identify any detained children and secure their immediate release.
Malaysia	Government	Immediately restore UNHCR's access to detention centres so that it can identify individuals, including children, who are in need of international protection.
Malaysia	Government	Reform the Immigration Act 1959/63 (Immigration Act) to legally exempt asylum-seekers and refugees from arrest, detention and prosecution for irregular entry.
Bangladesh Myanmar Malaysia Indonesia Thailand	Donors, UN agencies	Provide continuing financial support to humanitarian assistance to vulnerable populations, particularly children.

## OTHER RECOMMENDATIONS

Country	Stakeholder	Recommendation
Bangladesh Malaysia Myanmar Indonesia Thailand	Government	Ratify the 1951 UN Convention Relating to the Status of Refugees at the earliest opportunity, incorporate its provisions into domestic law, and implement them fully in policy and practice.
Bangladesh Myanmar Malaysia Indonesia Thailand	Government	Ratify the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness, incorporate their provisions into domestic law, and implement them fully in policy and practice.
Bangladesh Malaysia Thailand	Government	Immediately withdraw all remaining reservations to the UN Convention on the Rights of the Child.
Bangladesh Malaysia Myanmar Indonesia Thailand ASEAN	Government	Coordinate search-and-rescue efforts to locate and assist boats in distress and allow those aboard to disembark safely, making sure that they have sustained access to humanitarian and other assistance.
Bangladesh Myanmar	Government, UNHCR, UNDP	To ensure greater transparency, make the Memorandum of Understanding and Tripartite Agreement public.
Bangladesh Malaysia Myanmar Indonesia Thailand	Government, UN, civil society	Make sure there is meaningful consultation with and participation of Rohingya and their representatives in all decisions about their future. Take effective measures to include the voices and perspectives of children and youth.
Bangladesh Malaysia Myanmar Indonesia Thailand	Donors	Support UNHCR and NGOs by funding the work of:  UNHCR, so that all asylum-seekers receive prompt registration and efficient examination of their refugee claims;  NGOs involved in supporting the Rohingya community, so that they can operate at an appropriate scale and provide all necessary support services.
Bangladesh Myanmar Malaysia Indonesia Thailand	Government, civil society	Publicly condemn incitement to discrimination, hostility, or violence, including where it is propagated by state officials,

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Country	Stakeholder	Recommendation
Bangladesh Myanmar Malaysia Indonesia Thailand	Government, civil society, donors	Support targeted campaigns (particularly among host communities) to counter discrimination, hostility and xenophobia, and highlight principles of tolerance, inclusion and non-discrimination.
Bangladesh Myanmar Malaysia Indonesia Thailand ASEAN	Government	Support international justice efforts to hold those responsible for atrocities against the Rohingya to account.

Morshed\*, 2.5 years old, sitting at home after recovering from pneumonia in a refugee camp in Cox's Bazar, Bangladesh.



PHOTO: ALLISON JOYCE/SAVE THE CHILDREN

# Endnotes

- <sup>1</sup> While this report focuses on Rohingya children in these five countries, it is important to note that other countries are also home to sizeable Rohingya populations, including Saudi Arabia, Pakistan, and India.
- <sup>2</sup> Independent International Fact-Finding Mission on Myanmar (IIFMM), Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar, A/HRC/39/64, 17 September 2018. See also Save the Children, “Horrors I will Never Forget”: The stories of Rohingya children, 17 November 2017, <https://www.savethechildren.org.au/getmedia/bc8680f8-dbc6-4ed6-838e-12fcd81ab369/Horrors-I-Will-Never-Forget.pdf.aspx>.
- <sup>3</sup> International Organization for Migration (IOM), Bangladesh: Needs and Population Monitoring Undocumented Myanmar Nationals in Teknaf and Ukha, Cox’s Bazar, July 2017, <https://reliefweb.int/report/bangladesh/bangladesh-needs-and-population-monitoring-undocumented-myanmar-nationals-teknaf-2>.
- <sup>4</sup> 2021 Joint response plan: Rohingya humanitarian crisis, January–December 2021, May 2021, p. 8, [https://reliefweb.int/sites/reliefweb.int/files/resources/2021\\_jrp\\_with\\_annexes.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/2021_jrp_with_annexes.pdf)
- <sup>5</sup> Humanitarian Country Team in Myanmar, Myanmar Humanitarian Response Plan 2021 (HCT in Myanmar, 2021 HRP), 27 January 2021, p. 6 and 19, [https://reliefweb.int/sites/reliefweb.int/files/resources/mmr\\_humanitarian\\_response\\_plan\\_2021\\_final.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/mmr_humanitarian_response_plan_2021_final.pdf).
- <sup>6</sup> UNHCR, Figures at a glance in Malaysia, <https://www.unhcr.org/figures-at-a-glance-in-malaysia.html>, accessed 19 May 2021.
- <sup>7</sup> UNHCR, Figures at a glance in Malaysia, <https://www.unhcr.org/figures-at-a-glance-in-malaysia.html>, accessed 19 May 2021.
- <sup>8</sup> Save the Children interviews, January 2021.
- <sup>9</sup> D Sullivan, *Still Adrift: Failure to Protect Rohingya in Malaysia and Thailand*, Refugees International, November 2016, p. 11, <https://www.refugeesinternational.org/reports/2016/rohingya>. The International Organization for Migration (IOM) estimates that up to 21,000 “Myanmar Muslims” – which includes Rohingya – live in northern Thailand. IOM, Promoting Stability, Well-being and Harmony for Myanmar Muslim and Host Communities in Thailand, <https://thailand.iom.int/sites/thailand/files/Infosheets/AUP%20project%20summary%20infosheet.pdf>, accessed 23 May 2021.
- <sup>10</sup> Save the Children interview, January 2021.
- <sup>11</sup> Save the Children Interview, January 2021.
- <sup>12</sup> Bangladesh has noted reservations with respect to Article 14(1) (freedom of thought, conscience and religion), and has stated that Article 21 (adoption) is subject to existing laws and practices in the country. Meanwhile, Malaysia has made several reservations to the UNCRC with respect to Article 2 (non-discrimination); Article 7 (name and nationality); Article 14 (freedom of thought, conscience and religion); Article 28(1)(a) (free and compulsory education at the primary level); and Article 37 (freedom from torture or other cruel, inhuman or degrading treatment or punishment and arbitrary detention). Malaysia has also stated that application of the UNCRC is subject to compatibility with the Federal Constitution. Thailand maintains a reservation to Article 22 (children seeking refugee status), namely “national laws, regulations and prevailing practices in Thailand”. For the status of ratifications and reservations see: United Nations Treaty Collection, [https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-11&chapter=4&lang=en#EndDec](https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&lang=en#EndDec).
- <sup>13</sup> Article 3, UNCRC.
- <sup>14</sup> UN General Assembly, Note on International Protection, UN Doc. A/AC.96/951, 13 September 2001, para. 16.
- <sup>15</sup> UN Convention on the Law of the Sea, UN Doc. A/CONF.62/122, Art. 98.
- <sup>16</sup> Article 16, ASEAN Human Rights Declaration, adopted 18 November 2012.
- <sup>17</sup> Article 18.
- <sup>18</sup> The declaration contains a number of provisions that allow ASEAN governments to restrict human rights on vague and arbitrary grounds, leading national, regional and international civil society groups to reject it when it was adopted. See ‘Civil society rejects flawed ASEAN Human Rights Declaration’, Joint statement by 64 grassroots, national, regional and international civil society groups, 15 November 2012, <https://www.fidh.org/en/international-advocacy/other-regional-organisations/asean/Civil-society-rejects-flawed-ASEAN-12429>.
- <sup>19</sup> Declaration on the Commitments for Children in ASEAN, 2 August 2021.
- <sup>20</sup> ASEAN Declaration on the Rights of Children in the Context of Migration, 2 November 2019.
- <sup>21</sup> ASEAN Declaration on Cooperation in Search and Rescue of Persons and Vessels in Distress at Sea, 27 October 2010.
- <sup>22</sup> Many Rohingya reject the term “statelessness” as a descriptor for their situation, asserting that they have a state and often evidence of identity documentation, but these are not recognised by Myanmar. Save the Children acknowledges the sensitivities around the term, however, it also recognises that the deprivation of the right to a nationality has the effect of rendering Rohingya people stateless, which significantly increases their risk of other violations. In order to address these two tensions, this report uses the term “*de facto* stateless” when referring to Rohingya’s legal status in Myanmar.
- <sup>23</sup> Challenges registering the births of newborn children are not limited to the Rohingya population, and this is an issue that affects communities across the country, in particular in remote and hard-to-reach areas where government services are limited or not easily accessible. Given the longstanding issues around civil documentation for the Rohingya population, these challenges make Rohingya children’s situation all the more precarious.
- <sup>24</sup> See individual country snapshots in Section 3.
- <sup>25</sup> Article 7. The obligation to prevent children from becoming stateless is considered a rule of customary international law, and is thus binding on all states – regardless of whether they have ratified the UNCRC or lodged reservations to its provisions. UNHCR, *NGO manual on international and regional instruments concerning refugees and human rights*, 1998, pp. 210–11, [www.unhcr.org/46e660d70.pdf](http://www.unhcr.org/46e660d70.pdf). As already highlighted, Malaysia has lodged a reservation to this provision, although as discussed in the country snapshot (Section 3.3), Malaysia’s domestic legal framework allows the provision of a nationality for children born in the country who would otherwise be stateless.
- <sup>26</sup> Committee on the Rights of the Child, General Comment 1: The Aims of Education (article 29), UN Doc: CRC/GC/2001/1, 17 April 2001, para. 10; and CESCR, General Comment 13: The Right to Education (Art. 13), UN Doc: E/C.12/1999/10, 8 December 1999, para 1.
- <sup>27</sup> See, for example, Human Rights Watch, *Perilous Plight: Burma’s Rohingya take to the seas*, Human Rights Watch, May 2009.
- <sup>28</sup> UNHCR, ‘Over 168,000 Rohingya likely fled Myanmar since 2012’, 3 May 2017, <http://www.unhcr.org/en-us/news/latest/2017/5/590990ff4/168000-rohingya-likely-fled-myanmar-since-2012-unhcrreport.html>.

- <sup>29</sup> At the time, the IOM described as credible estimates that 8,000 Rohingya refugees and Bangladeshi migrants were stranded at sea. IOM, 'IOM appeals for USD 26 million for migrants in SE Asian boat crisis,' 26 May 2015, <https://www.iom.int/news/iom-appeals-usd-26-million-migrants-se-asian-boat-crisis>.
- <sup>30</sup> S Tisdall, 'South-east Asia faces its own migrant crisis as states play "human ping-pong";' The Guardian, 14 May 2015, <https://www.theguardian.com/world/2015/may/14/migrant-crisis-south-east-asia-rohingya-malaysia-thailand>.
- <sup>31</sup> Summary Special Meeting on Irregular Migration in the Indian Ocean, 29 May 2015, Bangkok, Thailand, <https://reliefweb.int/sites/reliefweb.int/files/resources/media-center-20150529-175942-231858.pdf>. In 2010 the bloc adopted the ASEAN Declaration on Cooperation in Search and Rescue of Persons and Vessels in Distress at Sea, in which states commit to collaborating to ensure timely assistance to persons and vessels in distress at sea.
- <sup>32</sup> For example, a trust fund established for victims of human trafficking has yet to be operationalised. Save the Children interview, November 2020.
- <sup>33</sup> The Bali Process, which is co-chaired by Australia and Indonesia, has 49 members, including all ASEAN Member States, Bangladesh, and several UN and intergovernmental agencies. See <https://www.bali-process.net/>.
- <sup>34</sup> Bali Declaration on People Smuggling, Trafficking in Persons and Related Transnational Crime, The Sixth Ministerial Conference of the Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime, Bali, 23 March 2016, <https://www.baliprocess.net/UserFiles/baliprocess/File/Bali%20Declaration%20on%20People%20Smuggling%20Trafficking%20in%20Persons%20and%20Related%20Transnational%20Crime%202016.pdf>.
- <sup>35</sup> UNHCR, 'Abandoned at Sea: The desperate journeys of Rohingya refugees', 8 December 2020, <https://kontinentalist.com/stories/the-rohingya-in-myanmar-a-refugee-crisis-at-sea>.
- <sup>36</sup> In April, Malaysia turned away a boat carrying an estimated 200 Rohingya off the coast of Langkawi, and in June, turned back another boat that had made several attempts to enter Malaysia waters. AFP, "Malaysia turns back Rohingya boat over virus fears", 15 April 2020, <https://www.thejakartapost.com/seasia/2020/04/17/malaysia-turns-back-rohingya-boat-over-virus-fears.html>; and AFP, Another Rohingya boat turned back from Malaysian waters, 11 June 2020, <https://www.nst.com.my/news/nation/2020/06/599851/another-rohingya-boat-turned-back-malaysia-waters>.
- <sup>37</sup> Malay Mail, "269 Rohingyas detained after body of woman found aboard Malaysia-bound boat", 9 June 2020, <https://www.malaymail.com/news/malaysia/2020/06/09/269-rohingyas-detained-after-body-of-woman-found-aboard-malaysia-bound-boat/1873664>.
- <sup>38</sup> UNHCR, Bangladesh Operational Update 1–31 May 2020, <https://reliefweb.int/report/bangladesh/unhcr-bangladesh-operational-update-1-31-may-2020>.
- <sup>39</sup> Save the Children interviews, January 2021. See also 'Joint Letter Re: End violent threats and anti-Rohingya campaign', joint letter by 84 NGOs, 11 May 2020, <https://www.hrw.org/news/2020/05/11/joint-letter-re-end-violent-threats-and-anti-rohingya-campaign>.
- <sup>40</sup> Save the Children interview, May 2020. In this report, all Rohingya children are given a pseudonym to protect their identities. These are marked with an \*.
- <sup>41</sup> Save the Children interview, May 2020.
- <sup>42</sup> Humanitarian Country Team in Myanmar, Myanmar Humanitarian Response Plan 2021 (HCT in Myanmar, 2021 HRP), 27 January 2021, p. 6, [https://reliefweb.int/sites/reliefweb.int/files/resources/mmr\\_humanitarian\\_response\\_plan\\_2021\\_final.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/mmr_humanitarian_response_plan_2021_final.pdf).
- <sup>43</sup> HCT in Myanmar, 2021 HRP, p. 6.
- <sup>44</sup> HCT in Myanmar, 2021 HRP p. 19. According the 2021 HRP, 19% (around 89,300) of non-displaced stateless Rohingya are girls, while 18% (around 84,300) are boys.
- <sup>45</sup> The law establishes three different categories of citizenship: 'full citizenship', 'associate citizenship' and 'naturalised citizenship'. Full citizens are those who belong to one of the country's recognised 'national races' or who were recognised as citizens on the day the law came into force. People not recognised as full citizens can apply to become 'associate' or 'naturalised' citizens. However, this status does not confer full citizenship rights and can be revoked on arbitrary grounds. See Independent International Fact-Finding Mission on Myanmar, *Report of the detailed findings of the Independent International Fact-Finding Mission on Myanmar*, UN Doc: A/HRC/39/64, 17 September 2018 (UN IFFM Report, 2018). See also Amnesty International, *Caged Without a Roof: Apartheid in Myanmar's Rakhine state*, 21 November 2017, pp. 28–41.
- <sup>46</sup> Despite the inherently discriminatory nature of the Citizenship Act, its provisions should in theory allow most Rohingya full citizenship rights. The Act clearly states that a person who was a citizen on the day of its entry into force remained a citizen, and their children would likewise qualify as 'full' citizens. Even if Rohingya had been relegated to 'associate' or 'naturalised' citizens, under the law, by now their third generation offspring would be eligible for full citizenship. See UN IFFM report, 2018, para 478.
- <sup>47</sup> See, for example, Fortify Rights, "Tools of Genocide": National Verification Cards and the denial of citizenship of Rohingya Muslims in Myanmar, September 2019.
- <sup>48</sup> UN IFFM report, 2018,
- <sup>49</sup> C Lewa, 'North Arakan: An open prison for the Rohingya in Burma', *Forced Migration Review*, 32, 2009, pp. 11–13.
- <sup>50</sup> Save the Children interview, January 2021.
- <sup>51</sup> Confidential report, May 2021. On file with Save the Children.
- <sup>52</sup> For more on movement restrictions see Independent Rakhine Initiative (IRI), *Freedom of movement in Rakhine State*, March 2020, <https://spark.adobe.com/page/2yY6hUP7Q48bb/>.
- <sup>53</sup> Save the Children interview, January 2021.
- <sup>54</sup> Save the Children interview, January 2021.
- <sup>55</sup> Lutheran World Federation, Myanmar: Education for students with special needs, 25 January 2021, <https://reliefweb.int/report/myanmar/myanmar-education-students-special-needs>.
- <sup>56</sup> Save the Children interview, January 2021.
- <sup>57</sup> Save the Children interview, January 2021.
- <sup>58</sup> Save the Children interviews, January 2021.
- <sup>59</sup> Save the Children interviews, January 2021. See also *Towards a Peaceful, Fair and Prosperous Future for the People of Rakhine: Final report of the Advisory Commission on Rakhine State*, August 2017, p. 12, (Final Report of the Advisory Commission on Rakhine State), [https://www.rakhinecommission.org/app/uploads/2017/08/FinalReport\\_Eng.pdf](https://www.rakhinecommission.org/app/uploads/2017/08/FinalReport_Eng.pdf).
- <sup>60</sup> Final Report of the Advisory Commission on Rakhine State, August 2017, pp. 12–13.
- <sup>61</sup> Save the Children interview, January 2021.
- <sup>62</sup> World Bank, Myanmar Economic Monitor – Coping with COVID-19, December 2020, <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/906171608086222905/myanmar-economic-monitor-coping-with-covid-19>.
- <sup>63</sup> On 21 June 2019, the government announced it had suspended mobile internet in eight conflict-affected townships in northern Rakhine state: Buthidaung, Kyauktaw, Maungdaw, Minbya, Mrauk-U, Myebon, Ponnagyun and Rathedaung, as well as Paletwa township in Chin state. The restrictions were lifted in Buthidaung, Maungdaw, Myebon, Paletwa and Rathedaung townships on 1 September 2019 before being re-imposed on 3 February 2020. From August 2020, 2G networks were available; however, connections were poor. After seizing power on 1 February 2021, the military lifted restrictions on 3 February. However, at the time of writing, Rakhine state – like the rest of the country – was subject to a suspension of mobile internet and wireless broadband services.

<sup>64</sup> Organisations whose staff had tested positive for COVID-19 had their operations suspended; meanwhile, the Rakhine state government cancelled all travel authorisations, requiring all organisations to submit new requests. Such requests were limited only to 'life-saving assistance', as defined by the Rakhine state government. Organisations that were able to continue operations were required to present 'COVID Free' certificates for staff to travel; however, limited testing capacity in Rakhine state means that in practice, this requirement was hard to meet.

<sup>65</sup> Bloomberg, 'With its economy in free fall, Myanmar braces for the worst', 12 April 2021, <https://www.bloomberg.com/news/articles/2021-04-11/myanmar-crisis-looms-with-fitch-warning-economy-will-shrink-up-to-20>.

<sup>66</sup> For example, on 29 November 2020, 96 Rohingya, including 25 children, were detained in Ayeyarwaddy Region in southern Myanmar, while in January 2021, 99 Rohingya were arrested in the commercial capital, Yangon. See The Irrawaddy, 'Myanmar authorities detain scores of Rohingya, human traffickers in multiple raids', 8 January 2021, <https://www.irrawaddy.com/specials/myanmar-covid-19/myanmar-authorities-detain-scores-rohingya-human-traffickers-multiple-raids.html>; and Reuters, 'Myanmar police arrest nearly 100 Rohingya in raid on house', 6 January 2021, <https://www.reuters.com/article/us-myanmar-rohingya-idUSKBN29B1U5>.

<sup>67</sup> In February 2020, at least 17 students were injured when an artillery shell landed on a school in Buthidaung township, while in September 2020, two children were killed and another injured as a result of artillery fire in Myebon township. See UNICEF, 'Statement on the injury of at least 17 school children, in Buthidaung township, Rakhine State, Myanmar', 14 February 2020, <https://www.unicef.org/myanmar/press-releases/unicef-statement-injury-least-17-school-children-buthidaung-township-rakhine-state>; and UNICEF, Myanmar 'Statement on the killing and injury of children in Myebon, Rakhine State', 10 September 2020, <https://www.unicef.org/myanmar/press-releases/unicef-myanmar-statement-killing-and-injury-children-myebon-rakhine-state>.

<sup>68</sup> In October 2020 two Rohingya boys, who were among a group of 15 villagers forced to guide Myanmar soldiers, were killed when fighting between the two armed actors erupted in Buthidaung Township, Rakhine State. *CTFMR expresses grave concern over circumstances of two children killed in fighting between the Tatmadaw and Arakan Army in Buthidaung, Rakhine State: Statement from the Co-Chairs of the UN Country Taskforce on Monitoring and Reporting on Grave Violations against Children in Myanmar*, 15 October 2020, <https://www.unicef.org/press-releases/ctfmr-expresses-grave-concern-over-circumstances-two-children-killed-fighting>

<sup>69</sup> See for example, Amnesty International, "No one can protect us": War crimes and abuses in Myanmar's Rakhine State, 29 May, 2019, p. 30.

<sup>70</sup> Under international humanitarian law, all parties to a conflict are required to distinguish between civilian and military objects. Failure to do so can have the effect of turning civilian objects – such as schools – into legitimate military objectives. As a result, international guidelines urge that schools and other education facilities not be used in any way that could support the military effort. This includes when such facilities are temporarily closed. See *Guidelines for Protecting Schools and Universities from Military Use during Armed Conflict* (Safe Schools Declaration), December 2014.

<sup>71</sup> According to UNICEF, of the 254 cases of death and injury from landmine/improvised explosive device/unexploded ordnance in Myanmar in 2020, more than half (134, or 53%) were in Rakhine state, 19 of them children. UNICEF, 'Landmines / ERW Incidents Information (2020)', 27 January 2021, <https://www.unicef.org/myanmar/reports/myanmar-landmineerw-incidents-information-2>.

<sup>72</sup> Human Rights Watch, *Burma/Bangladesh – Burmese refugees in Bangladesh: still no durable solution*, May 2000, <https://www.hrw.org/reports/2000/burma/burm005-01.htm>; see also AC Lindquist, Report on the 1978–79 Bangladesh Refugee Relief Operation, June 1979.

<sup>73</sup> 2019 Joint Response plan for Rohingya Humanitarian Crisis, February 2019, p.10, <https://reliefweb.int/report/bangladesh/2019-joint-response-plan-rohingya-humanitarian-crisis-january-december-enbn>.

<sup>74</sup> International Organization for Migration (IOM), Bangladesh: Needs and Population Monitoring Undocumented Myanmar Nationals in Teknaf and Ukha, Cox's Bazar, July 2017, [www.reliefweb.int/sites/reliefweb.int/files/resources/170814\\_NPM\\_RIV\\_Final.pdf](http://www.reliefweb.int/sites/reliefweb.int/files/resources/170814_NPM_RIV_Final.pdf).

<sup>75</sup> Of these 220,111 are girls, and 231,551 are boys. See 2021 Joint response plan: Rohingya humanitarian crisis, January–December 2021, May 2021, p. 8.

<sup>76</sup> UNHCR, Bangladesh Fact Sheet, March 2017, <http://www.unhcr.org/50001ae09.pdf>. These refugees live in two official camps, the original Kutupalong Refugee Camp, home to 14,129 Rohingya, and Nayapura Refugee Camp, which is in the Teknaf area, and is home to 19,659 refugees. Inter Sector Coordination Group (ISCG), Situation Report: Rohingya refugee crisis, 26 April 2018, p. 7. For more on the 1991–2 violence and expulsion, see Human Rights Watch, *The Rohingya Muslims: Ending a cycle of exodus?*, September 1996.

<sup>77</sup> UNCHR, Joint Bangladesh/UNHCR verification of Rohingya refugees gets underway, 6 July 2018, <https://www.unhcr.org/news/briefing/2018/7/5b3f2794ae/joint-bangladeshunhcr-verification-rohingya-refugees-gets-underway.html>

<sup>78</sup> UNCHR, Joint Bangladesh/UNHCR verification of Rohingya refugees gets underway, 6 July 2018.

<sup>79</sup> Article 5, 2004 Births and Deaths Registration Act.

<sup>80</sup> Submission by the United Nations High Commissioner for Refugees For the Office of the High Commissioner for Human Rights' Compilation Report, Universal Periodic Review: 3rd Cycle, 30th Session, Bangladesh,

<sup>81</sup> Bangladesh: Protection Working Group 2018 Rohingya Refugee Response – Advocacy Paper n.1, 19 March 2018, [https://reliefweb.int/sites/reliefweb.int/files/resources/pwg\\_birth\\_registration\\_advocacy\\_messages\\_120318.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/pwg_birth_registration_advocacy_messages_120318.pdf).

<sup>82</sup> Save the Children interview, February 2021. UNHCR, *Independent Evaluation of UNHCR's Emergency Response to the Rohingya Refugees Influx in Bangladesh, August 2017–September 2018*, December 2018, p. 65, <https://www.unhcr.org/5c811b464.pdf>.

<sup>83</sup> Article 4.

<sup>84</sup> The Citizenship (Amendment) Act, 2009 (Act No. 17 of 2009).

<sup>85</sup> Save the Children interview, November 2020.

<sup>86</sup> To date, there are an estimated 8,000 children of officially registered refugees living in the camps.

<sup>87</sup> Government of Bangladesh, *Leaving No One Behind: Education for girls and boys of Rohingya refugees and host communities in Cox's Bazar district of Bangladesh*, Bangladesh Funding Proposal to the Global Partnership for Education, 2018, p. 9, [https://www.globalpartnership.org/sites/default/files/20180813\\_gpe\\_proposal\\_rohingya\\_final.pdf](https://www.globalpartnership.org/sites/default/files/20180813_gpe_proposal_rohingya_final.pdf).

<sup>88</sup> Human Rights Watch, *Bangladesh: Rohingya Refugee Students Expelled*, 1 April 2019, <https://www.hrw.org/news/2019/04/01/bangladesh-rohingya-refugee-students-expelled>.

<sup>89</sup> 2020 Covid-19 Response Plan: Addendum to the Joint Response Plan 2020, Rohingya Humanitarian Crisis, April–December 2020, 5 July 2020, p. 41, [https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/covid-19-addendum\\_rohingya\\_refugee\\_response\\_020720\\_1.pdf](https://www.humanitarianresponse.info/sites/www.humanitarianresponse.info/files/documents/files/covid-19-addendum_rohingya_refugee_response_020720_1.pdf).

<sup>90</sup> Save the Children Interviews, February and March 2021.

<sup>91</sup> 2020 Joint Response Plan: Rohingya Humanitarian Crisis (January–December 2020) – Bangladesh, 3 March 2020, p. 71, [https://reliefweb.int/sites/reliefweb.int/files/resources/jrp\\_2020\\_final\\_in-design\\_280220.2mb\\_0.pdf](https://reliefweb.int/sites/reliefweb.int/files/resources/jrp_2020_final_in-design_280220.2mb_0.pdf).

<sup>92</sup> 2020 Joint Response Plan: Rohingya Humanitarian Crisis (January–December 2020) – Bangladesh, 3 March 2020, p. 58.

<sup>93</sup> Save the Children Interviews, February and March 2021.

<sup>94</sup> Save the Children Interviews, February and March 2021.

<sup>95</sup> Save the Children Interviews, February and March 2021.

<sup>96</sup> Save the Children Interviews, February and March 2021.

- <sup>97</sup> Peace Research Institute: Oslo (PRIO), *We Must Prevent a Lost Generation: Community-led education in Rohingya camps*, 2019, <https://www.prio.org/utility/DownloadFile.ashx?id=1838&type=publicationfile>.
- <sup>98</sup> Save the Children interviews, January and February 2021.
- <sup>99</sup> Save the Children interviews, January and February 2021. See also PRIO, *We Must Prevent a Lost Generation: Community-led education in Rohingya camps*.
- <sup>100</sup> E Wagner and H Warren, *Save our Education: Protect every child's right to learn in the COVID-19 response and recovery*, Save the Children International, 2020, p. 49, [https://resourcecentre.savethechildren.net/node/17871/pdf/save\\_our\\_education\\_0.pdf](https://resourcecentre.savethechildren.net/node/17871/pdf/save_our_education_0.pdf).
- <sup>101</sup> Bangladesh: Cox's Bazar Camp Settlement Fire – Mar 2021, <https://reliefweb.int/disaster/fr-2021-000027-bgd>.
- <sup>102</sup> Fortify Rights, Bangladesh: Remove Fencing, Support Fire-Affected Refugees, 5 May 2021, <https://www.fortifyrights.org/bgd-inv-2021-05-05/>.
- <sup>103</sup> 2020 Joint Response Plan: Rohingya Humanitarian Crisis (January–December 2020) – Bangladesh, 3 March 2020, p. 57.
- <sup>104</sup> Arrangement on return of displaced persons from Rakhine State between the Government of the People's Republic of Bangladesh and the Government of the Republic of the Union of Myanmar, 23 November 2017, on file with Save the Children. While a copy of the agreement was leaked, it has yet to be officially made public; refugees were not consulted in negotiations on the text.
- <sup>105</sup> H Ellis-Petersen and S Azizur Rahman, 'Rohingya refugees turn down second Myanmar repatriation effort', *The Guardian*, 22 August 2019, <https://www.theguardian.com/world/2019/aug/22/rohingya-refugees-turn-down-second-myanmar-repatriation-effort>.
- <sup>106</sup> Dhaka Tribune, Rohingya relocation: 2,495 more set for Bhasan Char in 6th phase, 31 March 2021, <https://www.dhakatribune.com/bangladesh/rohingya-crisis/2021/03/31/rohingya-relocation-2-495-set-for-bhasan-char-in-6th-phase>. They join 306 Rohingya – 33 of them children – who were taken to Bhasan Char after a boat they were travelling on was apprehended by Bangladeshi authorities in May 2020.
- <sup>107</sup> UNHCR, Figures at a glance in Malaysia, <https://www.unhcr.org/figures-at-a-glance-in-malaysia.html>, accessed 23 May 2021.
- <sup>108</sup> The Star, Rohingya refugees have no right or basis to make demands, says Home Minister, 30 April 2020, <https://www.thestar.com.my/news/nation/2020/04/30/rohingya-refugees-have-no-right-or-basis-to-make-demands-says-home-minister>.
- <sup>109</sup> Article 14(b) of the 1957 Federal Constitution states that: "[T]he following persons are citizens by operation of law... (b) every person born on or after Malaysia Day, and having any of the qualifications specified in Part II of the Second Schedule." Part II of the Second Schedule States makes clear that this applies to stateless children: "the following persons born before Malaysia Day are citizens by operation of law, that is to say: (c) every person born within the Federation after September, 1962, of whose parents one at least was at the time of the birth either a citizen or permanently resident in the Federation, or who was not born a citizen of any other country."
- <sup>110</sup> Save the Children interview, January 2021.
- <sup>111</sup> Save the Children interview, January 2021.
- <sup>112</sup> Save the Children interview, January 2021.
- <sup>113</sup> For more on the challenges of accessing education for Rohingya children in Malaysia, see Peace Research Institute Oslo (PRIO), *Education for Rohingya Refugee Children in Malaysia*, February 2020, [https://resourcecentre.savethechildren.net/node/17626/pdf/palick\\_julia\\_-\\_education\\_for\\_rohingya\\_refugee\\_children\\_in\\_malaysia\\_prio\\_policy\\_brief\\_2-2020.pdf](https://resourcecentre.savethechildren.net/node/17626/pdf/palick_julia_-_education_for_rohingya_refugee_children_in_malaysia_prio_policy_brief_2-2020.pdf).
- <sup>114</sup> Save the Children interview, January 2021.
- <sup>115</sup> UNHCR, Education in Malaysia, <https://www.unhcr.org/education-in-malaysia.html>, accessed 23 May 2021.
- <sup>116</sup> Some Rohingya are able to access private universities or institutions which are linked with UNCHR and accept refugees, however the numbers are extremely low
- <sup>117</sup> UNHCR, Her Turn: UNHCR report reveals critical gap in education for refugee girls, 8 March 2018, <https://www.unhcr.org/en-my/news/press/2018/3/5aa1fafe4/her-turn-unhcr-report-reveals-critical-gap-in-education-for-refugee-girls.html>.
- <sup>118</sup> Save the Children interviews, January 2021. See also C Wake and T Cheung, *Livelihood Strategies of Rohingya Refugees in Malaysia: "We want to live in dignity"*, Overseas Development Institute, 2016, p. 15.
- <sup>119</sup> According to a Malaysian government official, between May and November 2020 alone, some 8,000 'illegal' migrants were arrested as part of efforts to stop the spread of COVID-19. See The Malaysian Insight, 'Raids against illegals to stop Covid-19, says task force chief', 7 November 2020, <https://www.themalaysianinsight.com/s/283113>.
- <sup>120</sup> Of the 326 detained children from Myanmar, 253 were boys and 73 girls. See The Star, "Home Ministry: 756 children held at immigration detention centres nationwide as of Oct 26", 4 November 2020, <https://www.thestar.com.my/news/nation/2020/11/04/home-ministry-756-children-held-at-immigration-detention-centres-nationwide-as-of-oct-26>.
- <sup>121</sup> Save the Children interview, February 2021.
- <sup>122</sup> The Star, 214 died during detention in first six months, 7 August 2020, <https://www.thestar.com.my/news/nation/2020/08/07/214-died-during-detention-in-first-six-months>.
- <sup>123</sup> Save the Children interview, February 2021.
- <sup>124</sup> Asia Pacific Refugee Rights Network (APRRN), Urgent Statement: Malaysia Must Pursue Alternatives to Immigration Detention for Children Immediately, 8 December 2020, <https://reliefweb.int/sites/reliefweb.int/files/resources/APRRN-Statement-on-Malaysia-Immigration-Detention-of-Children.pdf>.
- <sup>125</sup> Amnesty International, Malaysia: Deportation to Myanmar puts lives in danger, 18 February 2021, <https://www.amnesty.org/en/latest/news/2021/02/myanmar-deportation-malaysia-danger/>.
- <sup>126</sup> Rohingya are also often included in figures estimating the number of Myanmar Muslims in the country, for example, according to the International Organization for Migration (IOM) up to 21,000 "Myanmar Muslims" – which includes Rohingya – live in 21 host communities spread across Tak, Ranong and Phang Nga provinces in northern Thailand. IOM, Promoting Stability, Well-being and Harmony for Myanmar Muslim and Host Communities in Thailand, <https://thailand.iom.int/sites/thailand/files/Infosheets/AUP%20project%20summary%20infosheet.pdf>, accessed 23 May 2021.
- <sup>127</sup> Save the Children interviews, January 2021.
- <sup>128</sup> In its 2019 Thailand Migration Report the UN noted that while Thailand had identified 100–155 Rohingya victims of trafficking between 2014 and 2017, "Many others... were not considered trafficked persons and did not receive such assistance, even though they demonstrated similar indicators of vulnerability and abuse". Thailand Migration Report 2019, 25 January 2019, p. 158, [https://thailand.iom.int/sites/thailand/files/document/publications/Thailand%20Report%202019\\_22012019\\_HiRes.pdf](https://thailand.iom.int/sites/thailand/files/document/publications/Thailand%20Report%202019_22012019_HiRes.pdf).
- <sup>129</sup> UNHCR Thailand, <https://www.unhcr.org/th/en>, accessed 23 May 2021.
- <sup>130</sup> Immigration Act of 1979. See especially Section 54.
- <sup>131</sup> For example, the regulation makes no reference to refugees, and instead states that "protected persons" are individuals who are unable or unwilling to return to their country of origin owing to a well-founded fear of persecution, which is to be "determined by the Committee". For further analysis of human rights-related concerns around the regulation, see W Rungthong and C Stover, 'Thailand's National Screening Mechanism: Key issues', *Opinio Juris*, 28 January 2020, <http://opiniojuris.org/2020/01/28/thailands-national-screening-mechanism-key-issues/>.
- <sup>132</sup> Save the Children interviews, January 2021.
- <sup>133</sup> Save the Children interviews, January 2021. A letter from the Council of State to the Secretary of the Cabinet, dated 18 Dec 2019 indicates that groups deemed to have "special security issues" which may seriously impact "international relationships" including "people fleeing fighting from Myanmar, Rohingya, Uighur, and North Koreans" could be excluded. See: [http://www.cabinet.soc.go.th/doc\\_image/2562/9933420829.pdf](http://www.cabinet.soc.go.th/doc_image/2562/9933420829.pdf).

- <sup>134</sup> Save the Children interview, January 2021.
- <sup>135</sup> Save the Children interviews, January 2021. See also ILO, Thailand Migration Report 2019.
- <sup>136</sup> Civil Registration Act (No. 2) B.E. 2551 (2008)
- <sup>137</sup> Save the Children interview, January 2021.
- <sup>138</sup> Save the Children interview, January 2021. See also UNHCR, *Ensuring birth registration for the prevention of statelessness*, 2017, p. 24, <https://www.refworld.org/pdfid/5a0ac8f94.pdf>
- <sup>139</sup> Section 7, Nationality Act (No. 4), B.E. 2551 (2008).
- <sup>140</sup> See 1999 Education for All Policy and 2005 Cabinet Resolution on Education for Unregistered Persons.
- <sup>141</sup> Save the Children interview, January 2021.
- <sup>142</sup> UNICEF, 'Removing barriers to migrant children's education in Thailand – New report showcases successful examples for making education a reality for migrant children', 19 December 2019, <https://www.unicef.org/thailand/press-releases/removing-barriers-migrant-childrens-education-thailand>.
- <sup>143</sup> Save the Children interview, January 2021.
- <sup>144</sup> UNESCO, 'Coordinated action needed for migrant students amid pandemic', 2 July 2020, <https://bangkok.unesco.org/content/coordinated-action-needed-migrant-students-amid-pandemic>.
- <sup>145</sup> Save the Children interview, January 2021. See, for example, UNHCR, UPR submission: Thailand, p. 10–13; CAT, Concluding Observations, 2014, para. 22; UNHCR, UPR submission: Thailand, p. 13; CESCR, Concluding Observations, 2015, para. 28. Amnesty International, *Between a rock and a hard place: Thailand's refugee policies and violations of the principle of non-refoulement*, 28 September 2017, p. 17. And, more recently, UCA News, 'Caged like animals: inside Bangkok's notorious IDC', 3 February 2020, <https://www.ucanews.com/news/caged-like-animals-inside-bangkoks-notorious-idc/87104>.
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- <sup>147</sup> Save the Children interviews, November 2020–January 2021.
- <sup>148</sup> Save the Children interview, January 2021. See also Fortify Rights, Thailand: Protect Rohingya Refugees from Forced Return, Indefinite Detention, 5 June 2020.
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- <sup>150</sup> Save the Children interview, January 2021.
- <sup>151</sup> See, for example, Joint statement: ASEAN must prevent another 'Rohingya boat crisis', Joint Statement by 16 humanitarian organisations, 16 November 2020, <https://www.care-international.org/news/press-releases/joint-statement-asean-must-prevent-another-rohingya-boat-crisis>; Human Rights Watch, 'Malaysia/Thailand: Allow Rohingya refugees ashore', 12 June 2020; The Nation, 'UN voices concern after Thai authorities force Rohingya back to sea', 2 April 2018, <https://www.nationthailand.com/news/30342303>.
- <sup>152</sup> UNHCR, UNHCR Indonesia: Response to the Rohingya situation in Aceh and North Sumatera – February 2016, 29 February 2016, <https://reliefweb.int/sites/reliefweb.int/files/resources/58208e224.pdf>.
- <sup>153</sup> According to UNHCR, as of November 2020, there were 13,745 people registered with the agency, of whom 3,819 (28%) were children. See UNHCR Indonesia Country Fact Sheet – November 2020, <https://www.unhcr.org/id/wp-content/uploads/sites/42/2021/01/Indonesia-Country-Fact-Sheet-November-2020.pdf>.
- <sup>154</sup> Save the Children interview, January 2021.
- <sup>155</sup> This includes confirming a formal role for UNHCR in the handling of refugees (Article 2); providing for search and rescue at sea (Articles 5–9); and support for refugees, including shelter and identification of refugees in need of emergency medical attention (Article 9 and Articles 24–30).
- <sup>156</sup> Article 7.
- <sup>157</sup> Article 27 of Indonesia's Law No. 23/2002 regarding Child Protection provides that "Every child must be given an identity from birth", while Article 28 further states that the issuance of a birth certificate is free of charge.
- <sup>158</sup> Save the Children interviews, January 2021.
- <sup>159</sup> Save the Children interview, January 2021.
- <sup>160</sup> Save the Children interview, January 2021.
- <sup>161</sup> Law of the Republic of Indonesia 12/2006 on Citizenship of the Republic of Indonesia.
- <sup>162</sup> Ministry of Education and Culture, Letter Concerning: Education for Refugee Children, Number 75253/A.A4/HK/2019, 10 July 2019, on file with Save the Children.
- <sup>163</sup> See note 159.
- <sup>164</sup> Save the Children interview, January 2021.
- <sup>165</sup> UNHCR Indonesia Country Fact Sheet – July 2020, <https://www.unhcr.org/id/wp-content/uploads/sites/42/2020/08/Indonesia-Fact-Sheet-July-2020-FINAL.pdf>.
- <sup>166</sup> Save the Children interviews, December 2020 and January 2021.
- <sup>167</sup> Save the Children interviews, January 2021.
- <sup>168</sup> UNHCR fact sheets, 2020, on file with Save the Children.
- <sup>169</sup> The Guardian, 'Three Rohingya refugees die days after seven-month ordeal on trafficking boat', 12 September 2020, <https://www.theguardian.com/global-development/2020/sep/12/three-rohingya-refugees-die-days-after-seven-month-ordeal-on-trafficking-boat-indonesia>.
- <sup>170</sup> UNHCR Population Figure Rohingya Boat Arrival – Aceh 27 September 2020, on file with Save the Children.
- <sup>171</sup> Save the Children interview, January 2021. By way of example, as of the end of January 2021, of the 396 Rohingya refugees who arrived in Aceh in 2020, just 112 remained in shelters. AFP, 'Hundreds of Rohingya missing from Aceh refugee camp', 28 January 2021, <https://www.thejakartapost.com/news/2021/01/28/hundreds-of-rohingya-missing-from-aceh-refugee-camp.html>.
- <sup>172</sup> Save the Children interviews, January 2021.
- <sup>173</sup> Save the Children interviews, January 2021.
- <sup>174</sup> Save the Children interview, January 2021.